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File No. 1 27 91 - PUBLIC

Volume

भारत सरकार

## **GOVERNMENT OF INDIA**

गृह मंत्रालय

## **MINISTRY OF HOME AFFAIRS**

अनुभाग SECTION

को सूचीकृत की गई	पत्राचार CORRESPONDENCE
Indexed on आद्याक्षर	Subhash Chandra Bush - Whit
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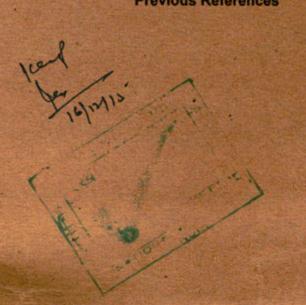
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Not to be noted

Note - 50 Corres: 1517

पिछले हवाले **Previous References** 

बाद के हवाले Later References

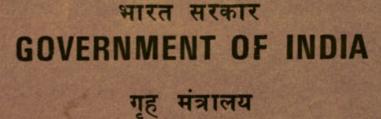


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File No ... 1/.. 27/91-PUBLIC



Volume



# MINISTRY OF HOME AFFAIRS

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अनुभाग PUBLIC Section

टिप्पणियां/पत्राचार NOTES/CORRESPONDENCE

> विषय SUBJECT

BHARAT RATNA AWARD TO NETAJI SUBHASH CHANDRA BOSE - WRIT PETITION REGARDING.

पिछले हवाले Previous References

बाद के हवाले Later References

\*

#### BRIEF CONTENTS & PAGE NO.

#### REMARKS

- Copy of the Writ Petition filed before Shri Justice Umesh Chandra Banerjee in the Calcutta High Court by Shri Bijan Ghosh. (Pages 8-39).
- Communication dated 21st January, 1993, from Shri Amitava Datta conveying the contents of the order dated 21st January, 1993 (page 6/cor.).
- 3. Communication dated 4th February, 1993 from Shri Amitava Datta conveying the contents of order dated 4th February, 1993 1993, received through containing inter- alia an order directing the Central Govt. to produce all the records pertaining to the declaration of of the award of Bharat Ratna to Netaji Subhas Chandra Bose. (page 7/cor.)

The order dated 4th Feb., Shri Bijan Ghosh. (page 140/cor.)

- 4. Communication dated 24th April, 1993, forwarding parawise comments in respect of writ petition by Shri Bijan Ghosh. (pages 89-93/cor.).
- 5. Communication from Department of Legal Affairs the Court Notice in original (Court Notice not received with the Communication) served upon the Attorney General for India. (page 101/cor.).
- 6. Note dated 19th July, 1993 from PS to Attorney General sending therewith a copy of letter from Shri Bijan Ghosh and copy of order dated February 4,1993.(pp. 138-140/cor.).
- Copy of affidavit of Shri Sunil Krishna Gupta, an added Respondent. (pp. 144-67/cor.).
  - Supplementary affidavit by Shri Bijan Ghosh (pp.168-81/cor.).
- Affidavit by Shri Amiya Nath Bose, added Respondent. (pp. 182-223/cor.).
  - Application for ad-interim order of injunction by Shri Bijan Ghosh. (pp.224-30/cor.).
- Letter dated 17th August, 1993, sending parawise comments in 11. respect of affidavit on behalf of added petitioner, Shri Sunil Krishna Gupta; Parawise reply in response to petition filed by Shri Amiya Nath Bose; parawise comments in respect of supplementary affidavit by Shri Bijan Ghosh & parawise reply in respect of ad-interim application for injunction by Shri Bijan Ghosh (pp.233-241/cor.).
- Affidavit of Dr. Susanta Kumar Mitra, added Respondent 12. (pp.243-284/cor.).
- Letter dated 7th September, 1993 from Shri S.K. Kundu with 13. This letter dated 7th reference to his earlier letter dated 1st September, 1993, September, 1993, was (not received to date) forwarding therewith five affidavits-in-received by Speed Post opposition for finalisation and also requesting to make the at 7.00 P.M. on 8th affidavit by the Secretary, Ministry of Home Affairs and September, 1993(p.285/cor. Secretary, Ministry of Human Resource Development for producing the records. (pp.285-311/cor.).
- Copy of letter dated 24-8-93 along with order of Court 14. dated August 2, 1993, received through Judicial Division on 13th September, 1993 at 5.25 P.M. (pp.312-14/cor.).

1. 2. 3.

15. Affidavit-in-Opposition to the main Writ Petition on behalf of Respondent No.1 (pp.318-326/cor.).

- 16. Affidavit-in-Opposition on behalf of Respondent No.1 to the application for supplementary affidavit(pp.327-33/cor.).
- 17. Affidavit-in-Opposition to application for ad-interim injunction filed by Shri Bijan Ghosh. (pp. 334-37/cor.).
- 18. Affidavit-in-Opposition on behalf of Respondent No.1 to the affidavit of Shri Amiya Nath Bose, an added Respondent. (pp.348-52).
- 19. Letter dated 20th September, 1993, from Shri S.K. Kundu addressed to Shri Kannan and copy to U.S. (Pub. & Vig.) referring to us letter dated 1st September, 1993 (not received in this Ministry to-date) stating therein that the order passed on 1st September, 1993 was intimated including direction of the Hon'ble Court to the Secretary, Ministry of Home Affairs and Secretary, Human Resource Development to file affidavits explaining delay in producing the records the records received in this Ministry on 27th September, 1993. (p.353/cor.).
- 20. Order dated 23rd September, 1993(p.354/cor.).
- 21. Order dated 1st September, 1993 (p.355/cor.).
- 2. Affidavit of Home Secretary claiming privilage (p.356-59/cor.).
- 23. Affidavit-in-Opposition in response to affidavit of Shri Sunil Krishna Gupta, added Respondent.(pp.360-65/cor.).
- 24. Order dated September 29, 1993 (pp.366-67/cor.).
- 25. Follow up action to the order dated 29th September, 1993, for making certain papers available to the Petitioner and added Respondents. (pp.374-80/cor.).
- 26. Receipt on 20th October, 1993 of order dated 1st September, 1993, and 23rd September, 1993 sent by Shri Bijan Ghosh to Ministry of Home Affairs through Judicial Section of this Ministry (pp. 384-388/cor.).
- 27. Affidavit filed on behalf of Secretary, Department of Education. (pp.389-392/cor.).
- 28. Affidavit filed by Shri S. Sathyam, SS(CS) explaining delay in producing the records.(pp.395-397/cor.).

Courts orders dated 21st January, 1993 and 5th July, 1993 not received even to-date either from the Petitioner or from the Central Government Counsel.

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### Part File No. 1/27/91-public

Ministry of Home Affairs
( Public Section)

S. No. | (Receipt) ph 1-3/6

FR

"See the clipping re: Netaji.
It refers to a writ filed in
Calcutta High Court. We should
see what this writ is about an
whether any action on our part
is needed. We know nothing abo
the writ. Initiate action
urgently. "

J.S.(A) 22. 1. 1993

This is in connection with a newsitem published in 'The Pioneer' dated the 22nd January, 1993 regarding a writ petition filed in the Calcutta High Court before Justice Umesh Chandra Banerjee challenging the validity of the Union Government's decision to confer a posthumous Bharat Ratna on Netaji. We may obtain a copy of the writ petition as per fair Wireless Message placed below for signature please.

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Paraus 28.1.97

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5. No. 2 (18548) 1-4/c

Sr. No. 3(R) - pp.5-39/corr.

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Shri S.K. Kundu, Central Government Advocate, Branch Secretariat, Calcutta, Ministry of Law and Justice vide his letter dated 4th February, 1993, has sent a copy of a writ petition filed in the High Court at Calcutta by Shri Bijan Ghosh, against the Union of India in the matter of conferment of highest Civilian Award of Bharat Ratna upon Subhash Chandra Bose posthumously without having any official declaration by Union of India of his death and/ or admission of his death and seeking direction upon the Union of India to declare post-facto the death of Subhash Chandra Bose etc. With his communication, Shri Kundu has enclosed two letters dated 21-1-93 and 4-2-93 from Shri Amitava Dutta, Advocate in the High Court at Calcutta wherein it has been intimated the above matter was moved before His Lordship the Hon'ble Mr. Justice Umesh Chandra Banerjee on 20th January, 1993 as an unlisted motion which was oppossed by Shri Dutta on behalf of the Union of India. However, on hearing the parties, His Lordship on 21st January, 1993 directed petitioner to serve copy of the writ petition on the learned Attorney General of India by Monday, the 25th January, 1993 and granted leave to the petitioner to correct the case title in the course of the day. It has also been intimated in this communication that on the oral prayer of Shri Amiyanath Basu, Barrister, His Lordship has been pleased to add him as one of the Respondents in the matter. In another letter dated 4th February, 1993, it has been intimated that the matter was heard on 4th February, 1993 and His Lordship has been pleased:-

- (i) to pass an order adding Dr. Sushant Kumar Mitra as one of the parties and further pleased to pass an order;
- (ii) directing affidavit in opposition to be filed by four weeks, reply thereto within two weeks thereafter and the matter to come up for hearing six weeks hereafter; and
- (iii) An Order directing the Central Government to produce all the records pertaining to the declaration of the Award Bharat Ratna posthumously to Netaji Subhash Chandra Bose at the next date of hearing.

In view of this position and the urgency and importance of the case, Shri Amitava Dutta has requested for proper instructions and also that a competent officer from the Ministry of Home Affairs and the Ministry of Human Resource Development should give him necessary instructions and make available all the records for further action.

- 2. In his writ petition, the petitioner has come up basically with the following contentions:-
  - (i) that the Government of India has never admitted and declared that Subhash Chandra Bose is dead and without having such official declaration and/or admission, the Government of India cannot award him posthumously;
  - (ii) that the mechanical approach and non-application of mind on the part of Government of India have prejudiced the profound feelings and admiration of the people throughout the country for Subhash Chandra Bose and Government should withdraw/

recall the award conferred to him as a mark of true honour to him;

- (iii) that the Government of India should not have ranked him with other recipients of Bharat Ratna as his achievements were much more glorious and magnificient;
- (iv) that the Government of India should have declared first that Subhash Chandra Bose is dead, the declaration being substantiated by documents and evidences beyond doubts, before awarding him posthumously(since the Government of India did not admit even in 1978 that Subhash Chandra Bose is dead and subsequently ordered for another Enquiry Commission);
  - (v) that the Government of India took the camouflage of awarding Subhash Chandra Bose posthumously to put an end to the enquiry(s) which is yet to be concluded satisfactorily to unvail the truth relating to the alleged report of death of Subhash Chandra Bose;
- (vi) that the Government of India has never admitted the death of Subhash Chandra Bose after the reports of Shah Nawaz Committee and Khosla Commission;
- (vii) that the Government of India headed by Chandra Shakher ordered for another enquiry Commission to be concluded on the unsolved mystry of death of Subhash Chandra Bose and without having the conclusive report of the said 3rd Commission, the Government of India cannot declare a person 'dead' by awarding him posthumously;
- (viii) that the Government of India cannot sit id(e in not investigating the 'unsolved mystry' relating to the death of Subhash Chandra Bose as to whether he is dead or not, if dead when he died, how he died, where he died and what happened to the dead body;
  - (ix) that it is reasonably believed that Subhash Chandra Bose left for the then Soviet Union under the camouflage of the report of the plane crash and spent the rest of his life over there, may be against his pleasure and the Government of India awarded him posthumously on January, 26, 1992 without having any enquiry officially in the political State Intelligence Archives of the then Soviet Union which is now easily accessible to all after the break of Soviet Union in December, 1991; and
    - (x) that since the award has been conferred on him posthumously the Government of India cannot afford to shrink in discharging its responsibilities and cannot evade its obligations to find out and establish the truth beyond all doubts about the said 'mystry' even if, the award Bharat Ratna is subsequently withdrawn with a mark of respect to Subhash Chandra Bose.
- 3. In view of the above grounds the petitioner has sought the following reliefs:-
  - (i) The respondent authorities to cancel and/or

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#### From pre-page.

withdraw and/or recall but award of Bharat Ratna which has been conferred on Subhash Chandra Bose and which has not yet been handed over to anybody on his behalf;

- (ii) The respondent authorities to declare officially that Subhash Chandra Bose is dead;
  - (iii) The respondent authorities to declare the details of death of Subhash Chandra Bose i.e. when the death occurred, how the death occurred, where the death occurred and what happened to the dead body;
    - (iv) The respondent authorities to form and constitute a 'High-level Enquiry Committee' to unearth the truths and facts beyond all doubts related with the unsolved mystry of the death of Subhash Chandra Bose;
      - (v) The respondent authorities to produce all the records available relating to the death of Subhash Chandra Bose, in original, so that justice may be administered; and
    - (vi) An ad-interim order of injunction restraining the respondent authority from handing over the award to anybody on his behalf and/or placing the award in national museum or in some other place.
- 4. From the contentions put-forward by the petitioner in his writ petition and the reliefs sought, the provocation for this writ petition is no doubt the announcement of conferment of Bharat Ratna posthumously on Subhash Chandra Bose, the thrust of the petition is to unearth the mystry of death of Shri Subhash Chandra Bose, make a formal announcement regarding his death and only after that the aspect of award of Bharat Ratna should be considered (even to the award of Bharat Ratna, the overwhelming feelings and sentiments are that he is too high a personality to be honoured with Bharat Ratna rather conferring Bharat Ratna on him is a slight to him).
- 5. In view of the position as explained above and the limitation of availability of time for filing a counteraffidavit, it appears appropriate that the matter is attended to in the IS-Division(D-III Desk) who have dealt with the findings of the reports of the Shah Nawaz Committee and Khosla Commission and also prepared notes for the consideration of the Cabinet Committee on Political Affairs and have obtained specific orders that Netaji Subhash Chandra Bose has died in the air crash on the 18th August, 1945 at Taihoku and that no useful purpose would be served by holding yet another enquiry or by bringing the ashes back to India at present as this might create unnecessary tensions. (Their note No. I(12014/6/90-IS(D.III) dated 10th January, 1991 for the Cabinet Committee on Political Affairs and CCPA's decision conveyed vide D.O. No. CCPA/6/91(iii) dated 6th March, 1991 approving the above proposal of the Home Ministry.
- 6. As regards conferment of Bharat Ratna on Subhash Chandra Bose posthumously, in view of the uproar created as a result of this announcement with particular reservation to the phraseology(posthumously) for Netaji Subhash Chandra Bose, The matter has been considered very carefully in this

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Index File - 1610.

#### From pre-page.

Ministry and it has been decided with the approval of the Prime Minister and the President that the award of Bharat Ratna announced for Netaji Subhash Chandra Bose should not be presented to anybody on his behalf nor it should be deposited in the National Museum or at any other place and the matter may be treated as closed.

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This was discussed today with JS(A).

- 2. We may pass on a copy of the two communications received from Shri Datta, Advocate, High Court, Calcutta together with a copy of the writ petition filed as C.O.No. (w) of 1992 filed by one Shri Bijan Ghosh against the Union of India asking the respondent authorities to declare officially the death of Subhas Chandra Bose and matter connected therewith to Is Division (DIII Desk) since the aspect relating to the death of Netaji Sibhas Chandra Bose including the findings of the reports of the Shah Nawaz Committee and Khosla Commission have been handled by them and that they have also prepared Note for the consideration of the Cabinet Committee on Political Affairs and have obtained specific orders that Netaji Subhas Chandra Bose has died in the air-crash on 18th August, 1945 etc.
- 3. As regards conferment of Bharat Ratna (posthumously) on Netaji Subhas Chandra Bose, we may give the factual information to that Division for making appropriate use while preparing the Counter Affidavit to be filed in the Calcutta High Court on behalf of the Union of India.
- 4. A draft forwarding note is placed below for consideration.

(V.P. Bhatia)
Under Secretary (Pub.&Vig.)
19.2.93

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Director (O&M & Viq.)

J. S (A)

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Is Division have expressed their inability to handle the writ petition filed by Shri Bijan Ghosh against the Union of India regarding death of Subhash Chandra Bose etc. As according to communication dated 4.2.93 from Shri A. Datta. Advocate, High Court at Calcutta (p7/c), the Hon'ble Court

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#### From pre-page:

has directed that affidavit-in-opposition be filed by 4 weeks i.e. upto 3rd March, 1993, we have no option than to request the Branch Secretariat, Ministry of Law, Calcutta to seek extension of time of one month for a counter affidavit to be filed by this Ministry.

This was discussed with JS(A). As directed by him, the Wireless Message, as dictated, may issue.

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5 to 7-9 (Receipts)-++ 46-87/c

Since IS Division has taken a stand that the Writ Petition filed in the Calcutta High Court by Shri Bijan Ghosh against conferment of Bharat Ratna(Posthumously) on Netaji Subhash Chander Bose, should be handled in the Administration Division (Public Section), parawise comments in so far as conferment of Bharat Ratna (Posthumously) on Netaji Subhash Chander Bose is concerned have been attempted and are placed below for consideration. About parawise comments in respect of the mystry of death of Netaji Subhash Chander Bose, the decision taken by the Government to accept the conclusions arrived at by both Shahnawaz Committee and the Khosla Commission and its public announcement, papers have already been passed on to IS Division with a request to furnish their parawise comments by 10th March, 1993. JS(A) may like to remind JS(IS-I) in the matter.

As directed by JS(A), we have already requested the Central Government Advocate(Branch Secretariat), Ministry of Law, Calcutta to seek extension of time from the Hon'ble High Court, Calcutta for atleast 1 month i.e. upto 3rd April, 1993 (page 42/cor.).

Submitted.

(V.P. Bhatia) Under Secretary/9-3-1993.

Director(OM & Vig.)

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Reference comments of IS-I Division in connection with the Writ Petition filed in the Calcutta High Court by Shri Bijan Ghosh against conferment of Bharat Ratna (Posthumously) on Netaji Subhash Chandra Bose and the mystry about the death of Netaji Subhash Chandra Bose. What in fact we had requested IS Division was parawise comments in respect of the portions of the Writ Petition with which they are concerned so that consolidated parawise comments could be prepared and sent to the Counsel at Calcutta for further necessay action. contention of IS Division that they are concerned only paras 2 to 4 of the Petition and sub-para (b) & (d) of para 26 is not correct. Parawise comments which have already been prepared by us and placed below would indicate that they are concerned with much more than they claim to be. What we required of them was parawise comments with reference to the contentions of the Petitioner in the Writ Petition and not a running background about the appointment of Enquiry Committee/ Commission and the reaction of the Government to their conclusions.

- 2. In view of this position and the paucity of time at our disposal it is proposed to send a copy of the parawise comments prepared by us for their perusal and modifying/ supplementing the comments already given therein and their specific parawise comments in respect of the paras which have been shown therein as for IS Division to elaborate.
- 3. Alternatively, JS(A) may like to call a meeting in which DS(IS-I) and DO(D.III) from IS Division and Director (O&M & Vig.) and myself can be present.

Submitted.

Pohace (V.P. Bhatia) Under Secretary/12-3-1993.

Director (98M & Vig.) Ry shaw: A meeting may perhaps be more meaningful. J.5 (A) may kindly see. of vir may please Comme

wifell of him we importance of this case and negrest him to fine para-wise comments

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Reference JS(A)'s directions above.

2. A meeting was held in the Room of Director (O&M & Vig.) yesterday where DS(IS-I) and myself were present. During discussions DS(IS-I) pointed out that with reference to the paras with which they are concerned, necessary parawise comments would be prepared on the basis of whatever records are available with them. However, he mentioned during this discussions that the paras where it has been claimed by the Petitioner that under the camouflage of the report of his aircrash death on 18th August, 1945, he successfully managed to enter the then Soviet Russian territory via Mantoria, necessary information may be obtained from the Ministry of External Affairs. According to him a Parliament Question on the subject was not dealt with by IS Division but it was transferred to Ministry of External Affairs.

A perusal of the Writ Petition indicates that there is mention of his entering Soviet Russia in paragraphs 10,11,12,18, 20 (grounds - XIX, XXII, XXIII) and para 22. As the time is very short at our disposal, it is necessary for us to take up the matter appropriate level to get the information very quickly. A draft d.o. letter as from JS(A) to Joint Secretary(East Europe) Ministry of External Affairs is placed below for consideration.

(V.P. Bhatia)
Under Secretary/16-3-1993.

Director(Osar & Vig.)

Commet 16-3.93

J.S (A)



Parawise comments in respect of writ petition C.O./ C.R. No. (W of 1992) filed in the High Court of Calcutta by Shri Bijan Ghosh, have been prepared, taking into consideration the comments of IS Division (placed in a separate folder below - Slip 'A') as also certain other documents made available by them viz. Report of the Khosla Commission (Slip 'B') and File No.31/2/74-Poll.(D.III) Slips 'C' & 'D') ( two files - main and part file) containing the Memorandum of Action Taken on the Report of the Khosla Commission Report (duly flagged as such) and the laying of the Report as well as Memorandum of Action Taken on the Report of the Table of both the Houses of of Action Taken on the Reporton the Table of both the Houses of Parliament (S.Nos. 12 & 13 of the file ibid).

- About mention of an order by the Government of India headed by the then Prime Minister, Shri Chandrasekhar, for a Third Enquiry Commission to un-earth 'unsolved mystery of Shri Subhash Chandra Bose's death( para 4 of the writ petition), it has been stated in the parawise comments that we have no information in the matter. However, I have discussed the matter with Shri Prabhat C. Chaturvedi, Director in the Prime Minister's Office who has promised that he will have the papers in the PMO checked up and will let us know if there is anything available on their records.
- These parawise comments, after JS(A) has seen and approved, may also be shown to JS(IS-I) for their comments, if any, with reference to the position stated in reply to paragraphs concerning death of Netaji Subhash Chandra Bose.

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Under Secretary/24-3-1992.

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I.S.(D.111)

#### Reference notes pre-page.

In respect of Writ Petition C.O./C.R. No.(W of 1992) filed in the High Court of Calcutta by Shri Bijan Ghosh parawise comments have been prepared by the Administration Division and they have requested this Division to offer our comments if any. On going through the petition it is observed that IS Division is concerned with only para 2. The comments offered in the first paragraph against para 2,3 and 4 of the parawise comments placed at DFA stating that the Government accepted the findings of both the Shah Nawaz Khan Committee and the Khosla Commission to the effect that Netaji died in an air-crash at Taihoku on 18th August, 1945 are correct as per records.

2. On the remaining paras we have no comments to offer.

(R.C. HANDA)
DESK OFFICER
7.4.1993

JS (45-1)
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Shri Bijan Ghosh has filed a writ petition in the High Court of Calcutta under C.O./C.R. No. (W) of 1992 on 18th January, 1993, against the U.O.I. in the matter of conferment of highest civilian award of Bharat Ratna on Shri Subash Chandra Bose, posthumously, without having any official declaration by Union of India of his death and/or admission of his death and seeking direction upon the Union of India to declare post-facto the death of Shri Subash Chandra Bose etc. A copy of the writ petition is at pages 8-39/cor. This matter was moved before his Lordship the Hon'ble Mr. Justice Umesh Chandra Banerjee on 20th January, 1993, as an unlisted Motion which was opposed by Shri Amiltava Datta, Advocate, on behalf of the Union of India. However, on hearing the parties his Lordship on 21st January 1993. on hearing the parties, his Lordship, on 21st January, 1993, directed the Petitioner to serve copy of the writ petition on the learned Attorney General of India by 25th January, 1993, and granted leave to the Petitioner to correct the case title in the course of the day. His Lordship was further pleased to add the name of Shri Amiyanath Basu, Barrister, as one of the respondents in the course of the respondents. Barrister, as one of the respondents in the matter on an oral prayer by Shri Basu.

This matter was further heard on 4th February, 1993 and his Lordship was pleased:-

- to pass an order adding Dr. Sushant Kumar Mitra as one of the parties and further pleased to pass an order;
- directing affidavit in opposition to be filed by four weeks, reply thereto within two weeks thereafter and the matter to come up for hearing (ii) six weeks hereafter; and
- (iii) An Order directing the Central Government to produce all the records pertaining to the declaration of the Award Bharat Ratna" posthumously to Netaji Subash Chandra Bose at the next date of hearing.
- 3. Since the issue relating to conferment of Bharat Ratna(Posthumously) on Shri Subhash Chandra Bose is the concern of Public Section and the aspect relating to the death of Shri Subhash Chandra Bose is the concern of IS Division(D.III Desk), the matter was referred to them for their comments relating to the two Enquiry Commissions viz. Shahnawaz Khan Committee appointed in 1956 and Khosla Commission appointed in 1970 and the decision of the Government on the recommendations in these two Reports. Based on their confirmation that the findings of both the Shahnawaz Khan Committee and the Khosla Commission to the effect that Netaji died in an aircrash at Taihoku on 18th August, 1945 have been accepted by the Government (these comments of IS Division have the approval of JS (IS-I), necessary parawise comments have been prepared and are placed below. Before a counter-affidavit, based on these parawise comments, is formally sent to our Central Government Advocate, Branch Secretariat, Ministry of Law & Justice, Calcutta for formally filing in the Calcutta High Court, the draft comments may kindly be shown to AS(ACS)/SS(CS) as proposed by JS(A) in his note on page10/ante. 4. In this connection it may be relevant to point out that we have already requested Central Government Advocate, Branch Secretariat Calcutta to seek extension of time from the Hon'ble High Court Calcutta upto 3rd of May, 1993, vide our two wireless messages at pages 42/cor. and 88/cor.

Submitted.

( V.P. Bhatia ) Under Secretary/13-4-1993.

Director(OMM & Vig.)

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of melt para-wise comments. plesufates wall S. No. 10-11 ( Issue) - 1 88-93/c

Sl.No.12(Receipt)-F.R. - PRY Com

Parawise comments in the matter of C.O.No. filed by Shri Bijan Ghosh against the Union of India challenging the conferment of Bharat Ratna (Posthumously) on Netaji Subhash Chandra Bose, after approval by JS(ACS), were sent to our Central Government Advocate, Branch Secretariat, Ministry of Law & Justice, Calcutta for finalising the affidavit-in-opposition in the prescribed proforma and returning the same by Speed Post for completing the formalities before filing the same in the High Court of Calcutta (pages 89-93/cor.). In his reply, the Central Government Advocate, Calcutta has/forwarded the parawise comments to the learned Advocate. Calcutta has I forwarded the parawise comments to the learned Advocateon-Record for drafting the affidavit-in-opposition. He has also communicated that due to the important nature of the case, he is engaging Shri Somendra Chandra Bose, a Special Penal Counsel and has indicated that Shri Bose will require consultation with a competent person in the subject matter of the Petition to be backed by the relevant files for the purpose of finalising the affidavit-in-opposition also for arguing the case.

The Petition in question involves two aspects; one relating to the conferment of Bharat Ratna (Posthumously) on Subhash Chandra Bose and the other relating to the mystery of disappearance and subsequent death of Netaji Subhash Chandra Bose in an air-crash. As regards the first point, which has been dealt with in the Public Section, there is no difficulty in explaining the position to the Special Penal Counsel but with reference to the aspect of death of Netaji Subhash Chandra Bose, it is IS Division who has handled the matter, appointed a Committee known as Shah Nawaz Khan Committee considered and accepted its recommendations; appointment of Khosla Commission of Enquiry in 1970; examination of the recommendations of this Commission and arriving at a conclusion in accordance with the recommendations of the Shah Nawaz Committee and the Khosla Commission of Enquiry that Netaji Subhash Chandra Bose died in an air-crash at Taihoku on 18th August, 1945, and thereafter laying the report of the Khosla Commission alongwith the Memorandum of Action Taken thereon on the Table of both the Houses of Parliament on 3rd September, 1974. Records of IS Division in the matter, are, for all purposes, secret since the recommendations contained in the two reports were

Linformed that he has

placed before the Cabinet by means of a Cabinet notes and the Minutes of the Cabinet meetings etc. A decision can only be taken by that Division whether they will be in a position to produce the original files in the Court as directed by the Hon'ble Mr. Justice Umesh Chandra Banerjee while hearing the matter on 4th February, 1993, to the effect that "...directing the Central Government to produce all the records pertaining to the declaration of the award of Bharat Ratna(Posthumously) on Netaji Subhash Chandra Bose at the next date of hearing"..... In case somebody has to go from here to Calcutta, a competent officer from the IS Division alongwith the relevant original files will also have to be present while briefing Shri Somendra Chandra Bose, Special Penal Counsel handling this case. But even the final settled version of the affidavit-in-opposition will have to be shown to senior officers here before its actual filing in the High Court of Calcutta. Alternatively since the Parliament Session is on and the affidavit-in-opposition duly finalised has to be filed in the High Court of Calcutta latest by 3rd May, 1993, Shri Somendra Chandra Bose can be requested to come to Delhi for personal discussion/aleagwith the relevant original records.

3. In view of the above position, it is for orders that we may request Shri Sømendra Chandra Bose to make it possible to come to Delhi for necessary consultation and finalisation of the affidavit-in-opposition and simultaneously ask IS Division to keep the relevant files ready in which the recommendations of both the Shah Nawaz Khan Committee and the Khosla Commission have been examined, papers submitted to Cabinet, decisions parrived at and subsequent action taken in the matter.

4. Necessary follow up action would be taken after the line of approach is approved.

(V.P. Bhatia)

Under Secretary/28-4-1993.

JS(A)

Clease discuss.

Montatelmaran 28.4.93

US (Pub)

This is a case of vexatious litigation.

- 2. Shri Netaji Subhash Chandra Bose should be presumed to be dead by any stretch of human imagination. Neither MHA nor the High Court of Calcutta can bring him back to life.
- 3. I feel that we should not offer any files to the Counsel at this stage. These files are likely to confuse him and he in turn will confuse the High Court. Para-wise comments which have already been sent clearly explain the stand of the Government on this issue. It is sufficient that the affidavit-in-opposition is drafted on the basis of these para-wise comments. In fact the Counsel will be instructed to do so.
- 4. If later on the High Court calls for any files, we shall have

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(from prepage)

to consider the matter and if necessary claim privilege.

5. AS(ACS) may also please see before the Counsel is advised accordingly.

(M. Venkateswara Iyer)
Joint Secretary (A)
April 30, 1993.

AS(ACS)

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MANAGE
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S. Nos. 13-14 (Issue) - H 45-97/com

As no reply has been received from Shri Kundu despite our messages and d.o. communications, the letter dictated to the Advocate Shri A. Datta with a copy to Shri Kundu may issue to-day by speed post.

S.O.(Public)

(V.P. Bhatia) Under Secretary/14-5-1993.

S., No. 15 (1884) - 10 98-99

As no reply has been received either from Shri Kundu or Shri Amitava Datta, Advocate, telegram as dictated may issue.

Bhas

( V.P. Bhatia ) Under Secretary/31-5-1993.

S.O.(Public)

5. No. 16 (Somes 10-100/c

S. No. 17 (Receive) \$6 101 - 133/c

Wase of

In response to our telegraphic message dated 31st
May, 1993 to Shri Amitava Datta, Advocate and a copy of the
same endorsed to Shri S.K. Kundu, Central Government Advocate,
we have heard nothing from either of them. We may remind them
as per draft telegram placed below for approval pl. We may
also write to Shri P.C. Kannan, Additional Legal Adviser
to use his good offices to direct Shri Datta and Shri Kundu
to send immediately Affidavit—in—Opposition duly finalised
to this Ministry as per draft letter placed below for
consideration pl.

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S. No. 20 (Receipt) p-136/c

FR

This is with regard to Writ Petition C.O. No. (W)/92 filed by Shri Rijan Ghosh against Union of India and others about conferment of the decoration of Bharat Ratna (posthumously) on Netaji Subhash Chandra Rose. We had requested Shri P.C. Kannan, Additional Legal Adviser, Department of Legal Affairs, Ministry of Law, Justice and Company Affairs vide our letter dated 18th/21st June, 1993 to pass suitable instructions to Shri S.K. Kundu, Central Government Advocate to ensure that the matter is attended on top priority. In response to our said letter, Shri Kannan has endorsed a copy of the letter dated the 2nd July, 1993 addressed to Shri Kundu and has asked this Ministry to depute somebody to meet Shri Kundu in Calcutta.

2. Before deputing somebody to Calcutta, it would be perhaps appropriate to contact shri Kundu over telephone and to have an appointment with him, so that he can give some time to discuss the matter with the person deputed.

submitted.

Branks 6.1.93

Shink-6/3/97

with

Parawise - comments duly souther in this Miny
were sent to Sh. Kundu, Central Gout Advo cate, Calentho
on 20.4.1993 ( p. 89 cm). Thereafter we are in constant
touch will Sh. Kundu and Shri Amilian a Datta, Advocate.
( ph 95-96 com, 97 cor, 98-98 corr, loo corr, and 134 con).
When no response was received either for Sh. Kundu er
84. Datta, I approached Sh. Kannay. Addl. Lepul
Adviser, M Law & Juhu ( p. 125 cm) reparting hun
to was his good officer and ash 8h Kundy to have

18-13510

@ FR 136/c

this matter attended to on top priority basis. In response now, Shi Kaman has asked St. Kundy to fally necessary action in the matter (FR). In the endorsement to FR, Shi Kannan has asked us to definte an officer to meet Shi Kundu at Calcuta.

2. As our paravise comments are self-contained and dond require any clarefication, there should int be any difficulty either for She Kundy or Shi Data to finalise the counter-attitional and return the same to un for down the need-ful and its return to shi Data to formally file 15 the Court. I don't think any useful perpose A will be served by defecting an officer from him. ) If necessary, we can talk either to she knows or Detter on phone from here and clavify any points they are for.

Susmitted for in formation and director in to porton side-lined "A' above.

Director (Sim sing)

May Kinney su.

T-S (A)

Picture (1) (2)

Dir con/vie) may please talk to their bundy out men refore to me, Metafalet meesar 8.7.13

Dir bofflig) g round take to shi Kundu only today. He has received the

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From Prepage:

the Remmunications sent to him. He applied not improved me unt the applicable Rended not be produced due to Shri Amitara Datta's sixners. He promied to finalise the drafting of the appoint next week and send it by speed yest. He pushin informed sivat another Rare has apparently been filed on The same ssine. He will remake up and inform US son faithful prairies. He may rontacted again by the middle of wak. may kindly see. Lumb. 1577. re next

1451 (Bir Colm) [33

2368 1380 25 T.5 (A)

If you don't hear trong hing Loon or if the counter does not come ley next week please talk I key afam Also capy of we second petition ( presumably sile of be obtained. You way send a Suitable

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telex Pax o sheir bunt 4 as follow-up of your teleconian Serial No (21) - Issue phisily

Pl. bring up on triday (23rd).

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SL.NO.22(RECEIPT) F.R.

This is a communication addressed by Mr. Bijan Ghosh, Petitioner in the writ petition C.O. No.6720(W) of 1993 which is against the Union of India & others. Under some mis-conseption Shri Bijan Ghosh has addressed this letter to Attorney General of India and through Law Ministry this communication has been passed on to us for immediate necessary action. According to the communication of Shri Ghosh the matter was taken up on 5th July, 1993, before Hon'ble Mr. Justice Shyamal Sen where none appeared on behalf of respondent authorities i.e. Union of India. His Lordship was pleased to direct the Respondent authorities to produce all the records and Notification relating to conferment of 'Bharat Ratna' upon Netaji (posthumously) on the next date of hearing which has been fixed for 2nd August, 1993.

2. This matter was discussed last evening with JS(A). Accordingly, I spoke to Shri Kundu this afternoon to get the latest position about this case. On the non-appearance of anybody on behalf of Union of India, Shri Kundu informed that the Government Counsel was very much there upto 1.15 P.M. and thereafter he left and the matter was mentioned by Shri Bijan Ghosh and was taken up by Hon'ble Mr. Justice Shyamal That is how there was none in the Court to represent Union of India. Shri Kundu further informed that another petition has been filed in the matter and he wanted that some senior officer should come to Calcutta to brief Mr. Amitava Datta, Junior Counsel as also Mr. R.N. Das, Special Panel Counsel. On my specific query as to what happened to the finalisation of the counter reply on the basis of parawise comments sent by this Ministry, he informed that the same has been prepared and is being sent to this Ministry so as to reach here sometime by Tuesday or Wednesday next week. About another petition by Tuesday or Wednesday next week. About another petition which has been filed in the matter, he informed me that a copy of the same is also being sent along with Counter draft Affidavit which has been finalised on the basis of our parawise When I asked him as to the aspect on which the Petitioner is putting on main thrust i.e. whether posthumous conferment of Bharat Ratna or on the aspect of decoration of death of Netaji Subhash Chander Bose by conferring posthumous award of Bharat Ratna on him, he had no specific reply to this query as he stated that he himself has not gone through the Petition or parawise comments sent by us. In this view of the matter I reiterated that he should ensure that the Counter Affidavit finalised on the basis of our parawise sentence. Affidavit finalised on the basis of our parawise comments and the other petition and any other related papers are sent to this Ministry by earliest and he agreed to that. In the absence of receipt of papers and the other petition which he is mentioning it would not serve any purpose for any officer to go to Calcutta in case there are any new points in the petition which cannot be answered off hand at Calcutta. I would again get in touch with Mr. Kundu on Monday to check up whether he has despatched the papers or not as he has expressed his inability to despatch the papers to-morrow on account of a Bundh.

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- 3. I have also sent him a telegram today requesting him to send the required papers expeditiously.
- 4. On my specific query as to whether the next date of hearing which has been fixed for 2nd August, 1993, is final, he stated that it will be known only when the next week's business is decided.
- 5. Submitted for orders. If the emphasis of the partitioner is on the cleath part of Helapi, then, an other of 15 Divn would also have to go their with original records and to answer any quesies related thereto.

(V.P. Bhatia)
Under Secretary/22-7-93.

Comme 22/7

Director (Q&M & Vig.)

J.S(A)

IS(ISI) may also please Lee sar information. In office of 15 I division may also have to go if

relevant locuments.

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seen. An officer of 15 wir. will be planted if request, for which inhimed as may in given in due time to us Buy her

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Shri S. N. Ray, Jr. Central government Advocate, Calculta High Grupt has sent copy of the affidavit on behalt of added belitimer shri Sunil Krishna Gupta; affidavit on behalf of added petitioner show Amiga North Bose: supplementary affidavit of the petitioner stri Bijan and application for and interim order of injunction. The has requested to furnish our comments on the send ducuments for enabling him redrafting of the Affidavit interim of the number of the numb

In this context, it may be stated that the farause comments prepared by us and sent to shi s. K. Kundu, Central Govt. Advocate in response to the original write petition filed by 81mi Byjan Ghoth has not been returned by 81mi Kundu duly vetted to this reinistry. We have sent a telegram to 81mi kundu in this repart ( bb 221 2226) rejard ( pp 231-232/c). However, the parawise comments brefared in response to the aforementationed documents sent by their Ray are placed below for approval M.

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FR

US (Pupp)

The papers consisting of an Affidavit on behalf of added Petitioner, Shri Sunil Krishna Gupta; another petition by Shri Amiya Nath Bose; supplementary Affidavit of the Petitioner, Shri Bijan Ghosh and an application by Shri Bijan Ghosh for ad-interim Order of Injuction, were received in this Ministry on 30th July, 1993. However, with these papers, the finalised Counter-Affidavit on the basis of parawise comments already sent to Shri Kundu in respect of the main writ petition filed by Shri Bijan Ghosh was not received. As according to a communication sent by Shri Bijan Ghosh addressed to the Attorney General of India (page 139/cor.), the next date of hearing fixed was the 2nd August, 1993, Reeping this date in view, a telegram was sent/to Shri Kundu together with a copy of the same sent by Speed Post informing him that the parawise comments already sent to him cover all the points raised in the main petition of Shri Bijan Ghosh and the Affidavit and application filed by added Petitioners, S/Shri Sunil Krishna Gupta and Shri Amiya Nath Bose, we may have the Affidavit in Opposition finalised on the basis of parawise comments already sent and return the same to us for doing the needful and formally filing the same in the Calcutta High Court. About the only additional point raised in the Affidavit of Shri Sunil Krishna Gupta that Bharat Ratna is a title which abolished under Article 18(1) of the Constitution of India, it was communicated to Shri Kundu that the award of Bharat it was communicated to Shri Kundu that the award of Bharat Ratna is not a title attracting the above Constitutional provisions and he was requested that this position may be suitably used in the Affidavit in Opposition. The copy of the Press Note rifying that the Civilian Awards are not titles, was also sent along with the copy sent by Speed Post. Shri Kundu was also requested to ensure appearance on behalf of the Union of India if the matter is heard on 2nd August, 1993 and seek extension of suitable time for filing Counter Affidavits. and seek extension of suitable time for filing Counter Affidavits on behalf of the Union of India. So far, we have not heard

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~ p.231/Gm 1 on 30 A July, 1992

anything from Shri Kundu whether any developments took place for 2nd August, 1993.

- 2. Parawise comments in respect of the petitions of the added petitioners, supplementary petition by Shri Bijan Ghosh and on the application for an ad-interim injunction have been prepared and are placed below (DFAs I to IV). After these parawise comments have been seen and approved, the same will also be forwarded to Shri Kundu for undertaking necessary follow up action.
- A perusal of these added petitions would indicate that the thrust of these petitions as also the earlier main petition of Shri Bijan Ghosh is basically on the aspect of death of Netaji Subhash Chander Bose and as such various original relevant records demanded by the Petitioner/co-Petitioners viz. the book published by Prof. Samar Guha, papers relating to the 'Transfer of Power 1942-47' and various other documents referred in the Reports of the Netaji Inquiry Committee and Khosla Commission would have to be produced, presented and contested by the IS Division.

Submitted.

Director(OfM & Vig.)

J.S (2)

(V.P. Bhatia) Under Secretary/5-8-1993.

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I have gove twough he sow hrafts and made tome madifications. These may be torwarded uinsediately to Shori kunde:

may flease be discussed.

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## S. No. 26 2 27 chemes 1/0 231-241/c

S.No.28(Receipt) F.R.

The four drafts in respect of the petitions by the added Petitioners; the supplementary Affidavit and the application for injunction by Shri Bijan Ghosh, as approved by JS(A), have already been sent to Shri Kundu on 17th August, 1993, requesting him to finalise all these Counter-Affidavits on behalf of the Union of India with a view to formally file in the High Court at Calcutta (page 233/cor.)

- 2. With the F.R., another petition in respect of C.O.No. 6720(W) of 1992 filed by Shri Bijan Ghosh has been received in the name of Dr. Sushanta Kumar Mitra who has also been added as co-Petitioner (the petition is at pages 243-284/cor.).
- Necessary parawise comments have been attempted and draft thereof is placed below for consideration and approval. In this connection attention is invited to the contentions of the Petitioner in para 13 relating to the statement made by the then Prime Minister, Shri Morarji Desai on the floor of the Parliament as also a reply given on 11th April, 1979, in response to Parliament Question No.6626 and Mark April, 1979, by Shri Dhaniklal Mondal, the then Minister of State in the Ministry of Home Affairs specifically stating in the reply that in the light of reasonable doubts cast on the correctness of the conclusions reached in the two inquiry reports on the death of Netaji Subhash Chandra Bose, Government find it difficult to accept that the earlier conclusions are decisive. It will, therefore, not be possible to take any action at present on the suggestion of General Fujiwara, attention has been down to the effect that the matter was considered by the Government as late as in February, 1991, when it was decided that since already two inquiries on the disappearance of Netaji have been completed and Government having already accepted the conclusions thereof, no useful purpose would be served by holding another inquiry or bringing the ashes back to India at present, as this might create unnecessary tensions (pages 14-54/c. 540/y). As this version is based on a Note prepared by the IS Division for the consideration by the Cabinet Committee on Political Affairs and the acceptance of the proposal by the CCPA, a decision has to be taken in the IS Division whether these papers/ if demanded for presentation in the Court can be made available or not.
- There is another para i.e. para 16 in this additional petition which relates to the public interest litigation moved by one Shri Nand Lal Sharma in the Rajasthan High Court being S.B. Civil Writ Petition No.902 of 1984, questioning the reports and findings of the Netaji Inquiry Committee and Khosla Commission. It has been stated by the Petitioner that the Union of India appeared but did not contest the Affidavits though exhaustive opportunity was given by the Hon'ble Court. A reference in this context has been made to a Judgement delivered by Hon'ble Shri Justice Kapoor on 18th January, 1986, directing the Union of India to hold a high level investigative inquiry commission with regard to Netaji within six months from the date of Order taking into account due consideration all the 63 sets of documents and other sets of documents which may be available in other parts of the World relating to the subject and to submit a report thereof.

~ p. 22/ ante

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or slips 'x and 'y'

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Since this is something about which information is not available in the two files made available by IS Division, specific comments of that Division will have to be obtained.

Submitted.

Bhall

Director( & Vig.)

(V.P. Bhatia) Under Secretary/19-8-1993.

The para me comments to may kindly seen. As regards the points on Ne impromation are not available with us, 15. Div. may be requested to greet the Muir JI (95-1 ) may ( 24/8

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Dir (yb-1) Please specify where LIS Directors Comments are regimed for early a chan

Distant Maragrapes as menhoned on propage and the para- wise Comments thereone may be sun for Springer Nomements. In fact, romments on any points where the 15. Div. are romermed, if any, are said over welcomed. (much 26/8.

Dir (15/1) Oraft comments mently please Fill 2/8/12

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## on Reference notes/prepage:-

Mainly, we are concerned with two points, vis. note portion sidelined 'X' of para 3 on page 23/N. and para 16 of the petition which finds mention in para 4 of note on page 23/N. Our comments on these points are as under:

- i) Since, the note for the CCPA and the acceptance by the CCPA of the proposal contained in pare 11 of the note are Secret documents, it may not be in the interest of security to present the same before the Court of Law.
- ii) Although the civil writ petition No.902 of 1984 in the Rajasthan High Court and the date of judgement delivered, i.e. 18th January, 1986 are correct, the judgement was delivered by Mr.

  Justice S.M. Bhargava instead of Mr. Justice Kapoor, as mentioned in pare 16 of the petition. Further, the Hon ble Court had in their judgement nowhere ordered for a fresh enquiry, but instead had directed the non petioner No.2, that is Secretary, M/o External Affairs, Union of India, to look into the matter dispassionately and hear the petitioner in person patiently and examine the documents and evidence that he wants to produce in support of his contention and then come to a definite conclusion. In his opinion 6 months time was sufficient for the Union of India, represented through the Ministry of External Affairs, to examine the whole matter afresh and if necessary inviting the public in general to produce material whatever it wants in this connection before coming to a prima facie decision as to whether fresh Commission is necessary or not. The Court also directed the petitioner to submit all his papers, evidence and other material before Government of India and time of six months will start from the date material is filed by the petitioner. A photo copy of the Rajasthan High Court judgement delivered on 18.1.86 in the matter may be seen at F/J.

( R.C. HANDA ) DESK OFFICER 1/9/1993.

Div(15-1)

We may give our comments as pur &o.'s note above.

JS (S-1)

Discussed with JS(IS.I) when Director(IS.I) was also present.



2. The part file No. 1/27/91-Public is placed below. Apart from the record already available with the file (No.31/2/74-Poll (D.III) regarding Netaji Commission of Inquiry - Follow up action and F.No. 31/2/74-Poll(D.III) regarding Netaji Inquiry Commission Report - Printing of & laying before the Cabinet) one File No. 25/14/70-Poll.II(Desk.III) about the setting up of Khosla Commission of Inquiry in 1970 to probe afresh the disappearance of Netaji Subhash Chandra Bose and another file No. I/13014/9/77-D.III dealing with No.day-yet-named motion in the House regarding Report (1974) of the Commission of Inquiry into the disappearance of Netaji, are available in this Desk. File No. 25/14/70-Roll.II(Desk.III) is classified and the same can not be presented before the Court as it contains material which is Secret. The other file dealing with the No-day-yetnamed motion, although is not marked Secret, the same also contains secret material. These files, if required, can be made available to the Public Section for their perusal but can not be produced before the Court as the same contain decisions of the Cabinet which are 'Secret'. There is no other record available with this Desk on the Khosla Commission of Inquiry. The record relating to the acceptance of findings of the Khosla Commission by the Government is available in the File No.31/ 2/74-Poll.(D.III) already linked with this file.

As regards the Shah Nawaz Khan Committee report and acceptance of its finding by the Government is concerned, no record is available with this Desk. However, it is understood from the record available at Flag 'XX' in linked file No.31/2/74-Poll.(D.III), that the Shah Nawaz Khan Committee was appointed by the Ministry of External Affairs as per their Notification No. F.30/26(FEA)/55 dated 5th April, 1956. Administration Division may see for further necessary action at their tration Division may see for further necessary action at their end. They may also incorporate a paragraph in the Affidavit for claiming privilege from the Court for not producing sensitive record on the subject.

> R.C. HANDA ) DESK OFFICER 7.9.1993

We may report the file to JS(A) DIRECTOR (IS

omments on 25/w and 28/ov

Reference notes on pages 25-26/ante recorded in the IS-Division in connection with the writ petition C.O. No.6720(W) of 1992 filed by Shri Bijan Ghosh and others against Union of India relating to the conferment of Bharat Ratna posthumously on Netaji Subhash Chandra Bose.

- 23. Despite clear indications in para 3 of my note on page 23/ante, IS-I Division has not stated anything about the socalled statement made by the then Prime Minister, Shri Morarji Desai on 11th April, 1979 and the reply given to Parliament Question by Shri Dhanik Lal Mondal, the then Minister of State in the Ministry of Home Affairs admitting that in the light of reasonable doubts cast on the correctness of the conclusions reached in the two Inquiry Reports on the death of Netaji, Governments finds it difficult to to accept that earlier conclusions are decisive. IS-I Division have also not indicated anything about the files relating to these two matters whether these are available and if so what is the stand to be taken on behalf of the Union of India. The draft parawise comments prepared by me in para 13 are referring to a decision taken by the Government of India in February, 1991, to which IS-Division has stated that since the Note for the CCPA and the acceptance by the CCPA of the proposal contained in para 11 thereof are secret documents, it may not be in interest of security to present the same before the Court of Law. They have not advised whether the reference made to this decision in response to para 13 is in order or not. Similarly they have referred to certain other files in para 2 of their note on page 26/ante that these files are secret (one of them even though not marked secret contains secret material) cannot be produced before the Court even though these can be made available to the Public Section for perusal. The main question under consideration is that for the aspect relating to the disappearance of Netaji Subhash Chandra Bose, the various inquiries held, findings of these inquiries, their acceptance by the Government and other follow up action are aspects which should be vetted by that Division in the various parawise comments prepared by the Public Section and production of records first to the Special Panel Counsel and then in the Court will have to be attended to by IS-Division itself an
- 3. Since the proposition is very simple that Public Section has to attend to the aspect relating to the conferment of Bharat Ratna and IS-I Division to the other aspect relating to the death of Netaji Subhash Chandra Bose, it has to be a joint exercise, each Division discharging its own role. It would not be correct to incorporate something in the Affidavit on behalf of IS-I Division till they categorically state that the paras relating to the death of Netaji Subhash Chandra Bose have been correctly reflected therein and they will produce themselves the relevant original records in the Court.
- 4. Since time at our disposal is very short and things have to be sorted out from all angles including what records can be produced and for which privilege has to be sought, it is suggested that JS(A) may kindly convene a meeting with JS(IS-I) wherein the concerned officers of Public Section and IS-I Division can participate and arrive at a very quick line of approach so that representatives of Public Section and IS-I Division go to Calcutta at the earliest with the original records to show to the Special Panel Counsel to enable him to finalise the Counters in Opposition and subsequently to produce whatever records can be produced in the Court on 22nd September, 1993, and to seek privilege in respect of the records which cannot

be produced. Justification, as desired by the Court for not producing the original records as demanded earlier would also have to be given.

Submitted for early consideration of the proposals submitted in the foregoing paragraphs.

(V.P. Bhatia)

Director(O&W & Vig.)

J.5 (A)

Under Secretary/10-9-93.

This was discussed with JS(A) this evening in the background of inability expressed by the Senior Central Government Standing Council (Shri S.K.Kundu) and Special Panel Council (Shri R.N.Das) to come to Delhi on account of their commitments in Calcutta High Court. Even though IS Division recorded two notes dated Ist September, 1993 (Page 25 ante) and 7th September, 1993 (page 26 ante), they have not specifically okayed the parawise comments (DFA) in respect of paras relating to the death of Netaji Subhash Chandra Bose and issues related thereto. In the draft parawise comments, in reply to para 13, I have made a mention of a decision taken by the Government in February, 1991 to the effect that "since we have already two inquiries on the disappearance effect that "since we have already two inquiries on the disappearance of Netaji and Government having already accepted that Netaji died in the air-crash on 18th August, 1945, at Taihoku, no useful purpose would be served by holding another inquiry or bringing the ashes back to India at present, as this might create unnecessary tensions". Even though IS-I Division have stated (page 25 ante) that the note for the CCPA etc. are Secret documents, it may not be in the interest of Security to present the same before the Court of Law. While that Division may seek privilege in respect of production of Secret record, they have not communicated whether the position stated in para 13 of the draft parawise comments would be in order since the decision of 1991, referred there in (which is Secret) has been relied upon. Further, with reference to para 16 of the Writ Petition, IS Division has narrated the position of the Court Case in the Rajasthan High Court. The precise reply to para 16 to be included in the Counter Affidavit has not been specifically given against para 16 of the draft parawise comments.

2. JS(A) may like to discuss the matter with JS(IS-I) with a view to vet the parawise comments (DFA) so that these may be finalised and taken to Calcutta by the Officer being deputed to have face to face discussions with Shri R.N. Das, Special Panel Council, alongwith original records relating to conferment of Bharat Ratna and the death of Netaji Subhash Chandra Bose.

Submitted.

Bude (V.P. BHATIA) UNDER SECRETARY/ 14.9.93

JS(A)

Notes from pare 27 and have by Is(A) to Is (13-1) on the He Laws persones by me 1319

31. No. 29 (Recept) - FR 10.285-311/Cm - 29 -

Central Government Advocate, Ministry of Law & Justice, Department of Legal Affairs, Branch Secretariat, Calcutta has forwarded 5 Affidavits for finalisation - one relating to the main petition filed by Shri Bijan Ghosh, the other in respect of supplementary petition and the 3rd in respect of application for ad-interim Injunction by Shri Bijan Ghosh; 4th & 5th relating to the petitions filed by S/Shri Sunil Krishna Gupta and Amia Nath Bose, Co-petitioners. Out of these 5, three filed by Shri Bijan Ghosh have been settled by Shri R.N. Das, Senior Panel Counsel and the other two even though drafted does not contain any indication whether these have also been settled by Shri Das or not.

2. The three petitions filed by Shri Bijan Ghosh and duly settled by Shri Das have been glanced through and where necessary verbal corrections have been made (Slips 'A', 'B', & 'C'). It has been observed that in these Affidavits in Opposition, certain paras have not been replied to at all; Perhaps on the basis of the statement to the effect that "save and except the statements expressely admitted hereinafter and save and except what appears from the records, all allegations contrary thereto and/or in consistent therewith shall be deemed to have been denied and disputed by me." The three Affidavits in Opposition may kindly be seen for kind approval before these are taken to Calcutta for discussion with the Senior Panel Counsel and production of records relating to Bharat Ratna Award conferred on Netaji Subhash Chandra Bose.

As regards the aspect relating to death of Netaji Subhash Chandra Bose inquired into by the Netaji Inquiry Committee in 1956 and Khosla Commission in 1970, the process of these reports, the acceptance of the findings of these two reports etc. and the original records relating thereto have to be produced by Shri Handa, Desk Officer IS.III who has been authorised by JS(IS-I) to accompany the undersigned to Calcutte to accompany the undersigned to Calcutta.

- Since the time at our disposal is very short i.e. only today and tomorrow and on 17th morning the Affidavits-in-Opposition have to be filed in the Calcutta High Court, it is necessary that officers from this Ministry should reach Calcutta by tomorrow morning positively and for that the only alternative is either to leave Delhi today (subject to availability of reservation) by Rajdhani Express which leaves at 5.15 P.M. and reaches Calcutta around 11.00 A.M. tomorrow or to go by air this evening by the two flights - one leaving at 17.20 hours and the other leaving at 20.00 hours or tomorrow morning by flight No.IC-262 which leaves New Delhi at 0605 hours and reaches Calcutta at 0800 hours: leaves New Delhi at 0605 hours and reaches Calcutta at 0800 hours; IC-401 which leaves New Delhi at 10.10 hours and reaches Calcutta at 12.05 hours.
- 5. Submitted for kind approval of the three Affidavits in Opposition and also for approval of travel plans out of the alternatives suggested above. In case it is decided to go by train, it is necessary to make special efforts since the VIP quota for this train is likely to be released by 11.30 A.M.

Submitted for early consideration.

Pohale (V.P. Bhatia) Under Secretary/15-9-1993.

JS(A) has seen and approved the three Attidavita in Opposition to be taken personally to Calcutto to file on 17th Sept. 1993.

S. No . 30 (Receipt) - \$ 312-317/C. S. No. 31-33 (15540-16.313-337/C S. No. 34 ( Recapt) \$\$ 338-340/C

x on the basis of our poravise comments (Ap. 90-93/cm and 234-24/(com)

~ slips .G,H,K

The three Affidavits in Opposition in response to the main writ petition; supplementary petition and an application for adinterim Injunction filed by Shri Bijan Ghosh duly settled by Shri R.N. Das, Special Panel Counsel, were filed on 17th September, 1993, in the High Court at Calcutta.

- 2. In the evening of 17th September, 1993, a detailed discussion took place with the Special-Panel-Counsel (Shri R.N. Das) and the Junior Counsel (Smt. Aarti Dutt) lasting for about two hours. The discussion covered the original papers relating to conferment of Bharat Ratna on Netaji Subhash Chandra Bose and subsequent decision of the Government of India not to confer the said Bharat Ratna on Shri Netaji Subhash Chandra Bose and to treat the matter as closed; the Netaji Inquiry Committee set up in 1956 and its Report; one Man Commission of Inquiry known as Khosla Commission set up in 1970 and its Report submitted in 1974, the socalled statement by Shri Morarji Desai, the former Prime Minister and other related papers indicating that the Government of India have accepted the findings of Netaji Inquiry Committee and the Khosla Commission, copies of the Khosla Commission having been laid on the Table of both the Houses of Parliament and the Memorandum of Action Taken also laid on the Table of both the Houses of Parliament etc.etc.
- 3. As regards announcement of Bharat Ratna on Netaji Subhash Chandra Bose is concerned, I told Shri Das that we have formal communications written by the Prime Minister proposing the name of Netaji Subhash Chandra Bose and the communication from President accepting the suggestion of the Prime Minister to confer Bharat Ratna posthumously on Netaji and a formal announcement by the President's Secretariat by way of a Press communique is available on the file and can be seen by the Hon'ble Court and if desired copies thereof can be supplied to other parties. However, I specifically pointed out to the Specifically pointed out to the Specifically and a statement and arritinism of the decision taken, in view of the dis-contentment and criticism of the decision of the Government not to confer the award of Bharat Ratna on Netaji Subhash Chandra Bose and to treat the matter as closed, forms internal notings in the file. Of course, on his query I told him that this decision has been taken with the approval of the President of India. On his specific query whether these papers can be made available to the Hon'ble Court and to the parties concerned, I told him that since these are internal notings in the file which are normally for the consumption of the Ministry, I would have to seek the orders whether we will be claiming privilege for production of this internal noting part of these can be produced in the Hon'ble Court for inspection and provision of relavant copies to the parties also. In view of this position it is for orders whether besides the two communications one written by the Prime Minister to the President and the other written by the President to the Prime Minister accepting the suggestion of the Prime Minister to confer Bharat Ratna posthumously on Netaji Subhash Chandra Bose, the internal noting part can also be produced before the Hon'ble Court or a privilege has to be sought for that.
- 4. With reference to the two Inquiries conducted by the Government one in 1956 and the other in 1970 the Senior Panel Counsel wanted a copy each of these two Reports ( with an additional copy for the Junior Counsel for study and taking a view at the time of arguments on 22nd September, 1993). We may supply two copies to Shri R.N. Das of these two Reports. He then specifically asked for, referring to the language of the Order dated August 2, 1993, as to the reasons for not producing the relevant records in connection with this case before the Hon'ble Court despite clear directions of the Hon'ble Court. He inquired whether there were any earlier such directions of the Hon'ble Court for production of original records. I told him that such a reference was received by this Ministry through a communication from Shri Amitava Datta, Advocate, High Court vide his two letters dated 21st January, 1993 and 4th February, 1993 (Pages 6-7/cor.). While reading

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the communication dated 4th February, 1993, he was informed of the Order of the Court about production of original records vizan Order directing the Central Government to produce all the records pertaining to the declaration of the award of Bharat Ratna posthumously to Netaji Subhash Chandra Bose at the next date of hearing. Taking a cue from this direction of the Hon'ble Court, Shri Das was of the opinion that we may only produce original records relating to conferment of Bharat Ratna posthumously and do not produce any records relating to the mystery concerning the disappearance of Netaji and the subsequent two Inquiries conducted in the matter. This line of action to be taken by the Senior Panel Counsel may kindly be seen for information and directions, if any.

5. Shri Das then again referred to above, which contained the following:-

"Secretary, Ministry of Home Affairs, New Delhi, Respondent No.1 and the Secretary, Ministry of Human Resource Development New Delhi, Respondent No.2, are directed to produce all relevant records in connection with this case before this Court on 1-9-1993 either by personally appearing before this Court or in the alternative to produce such records by their respective competent officer duly authorised by them".

As we had sought adjournment of the hearing on 1-9-1993, the Hon'ble Court was pleased to grant us time and fix the next date of hearing as 22nd September, 1993. In view of the language of the Order of the Hon'ble Court as reproduced above, Shri Das, Senior Panel Counsel is very emphatic that either the Secretaries in the Ministries of Home Affairs and the Human Resource Development or some other officer duly authorised by the Secretaries themselves should be physically present in the Hon'ble Court at its hearing on 22nd September, 1993. When I told him that Secretary, Human Resource Development is not directly or indirectly concerned with the matter, then he pointed out that since this Order has already been communicated by Shri Bijan Ghosh vide his letter dated 24th August, 1993, it is desirable that some representative from the Ministry of Human Resource Development duly authorised by Secretary of that Ministry attends the Court on 22nd September, 1993; alternatively, an Affidavit or a letter duly signed by Secretary may have to be carried by the representative of the Home Ministry making a prayer to the Hon'ble Court about his not-concerned in the matter and deletion from the list of Respondents.

6. During discussion, the Senior Panel Counsel also inquired as to how the Prime Minister proposed the names of Maulana Abul Kalam Azad and Subhash Chandra Bose to the President for conferment of Bharat Ratna posthumously, I told him that for conferment of Bharat Ratna, recommendations are received by the Prime Minister himself who is free to consult anyone he chooses in the matter and make a proposal to the President for his consideration and approval. Since the procedure part relating to calling of recommendations relating to Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri has been spelt out in a letter addressed to the State Governments and Ministries/Departments of the Government of India with a secret classification, it is for orders whether, if directed, this letter has to be produced or privilege has to be claimed for production of this letter also.

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7. The above position may kindly be seen for information and directions before somebody from Home Ministry leaves Delhi for Calcutta so that he carries with him the required brief.

(V.P. Bhatia)
Under Secretary/20-9-1993.

JS(AT)

May kindly see the note above.

- 2. Both US(Pub) and DO(IS.III) visited Calcutta on 17 September, 1993 and had discussions with Shri R.N. Das, Special Panel Counsel engaged by the Ministry of Law to appear in the High Court in this case on behalf of the Ministry of Home Affairs. The affidavits-in-opposition to the main writ petition filed by Shri Bijan Ghosh, his supplementary petition, and his application for ad interim injuction were filed in the High Court on 17.9.1993.
- 3. The High Court has ordered the production of all the "records pertaining to the declaration of the Award of Bharat Ratna posthumously to Netaji Subhash Chandra Bose". The case has been listed for hearing on 22.9.1993. The records have, therefore, to be produced before the Court on that day.
- There is only one file on the subject, namely, F.No. 1/27/91-Public. There is also a part file bearing the same number which contains the decision of the Government of India not to take any further action in the matter (of award of Bharat Ratna to Netaji) following representations to the President about the propriety of the Award and its posthumous character. The main file and the part file are placed below. It will not be advisable to produce these files before the Calcutta High Court. They relate to the conferment of the highest civilian awards in the country, and disclosure of the process by which these awards are conferred will be prejudicial to the public interest. Besides, there is also a danger in disclosing the contents of these files. While the ostensible purpose of the petitioner and the co-petitioners who have joined him, is to attack the award of Bharat Ratna to Netaji, their real purpose is to force the Government to order a fresh inquiry into the death of Netaji. fresh inquiry will be an exercise in futility and must be resisted. It is, therefore, necessary to claim privilege in respect of these files under Sections 123 and 124 of the Indian Evidence Act, 1872.
- 5. The matter was informally discussed yesterday with Adviser (B), who expressed the view that we should claim privilege. The matter was also discussed subsequently with AS(ACS), who also agreed that privilege should be claimed.
- 6. It is accordingly proposed that privilege may be claimed in

(from prepa() 65

respect of the entire contents of F.No. 1/27/91-Public and Pt. F.No. 1/27/91-Public, under Section 123 and Section 124 of the Indian Evidence Act, 1872. A draft affidavit claiming privilege is submitted for the approval of Home Secretary.

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- 7. US(Pub) may be deputed to go to Calcutta to present to the High Court the signed affidavit claiming privilege. He will also file in the Court tomorrow the affidavit-in-opposition to the petition filed by Shri Amiya Nath Bose who has joined in this case as an added Respondent. Shri Bose is the nephew of Netaji; the affidavit-in-opposition has been settled by Shri R.N. Das, our Counsel and is ready to be filed.
- 8. US(Pub) may kindly be permitted to travel by air in view of the urgency. He may also be permitted to return by air this time because of the difficulties in obtaining railway reservation at short notice, and also because he is needed here for other urgent work.

(M. Venkateswara Iyer)

Joint Secretary (A)

September 21, 1993.

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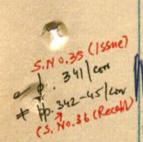


As directed, I went to Calcutta in connection with the petition filed by Shri Bijan Ghosh, an Advocate in the High Court at Calcutta against the Union of India challenging the posthumous conferment of Bharat Ratna award on Netaji Subhas Chandra Bose. The matter was fixed for 22nd September, 1993. However, the Court fixed it as first item on 23rd September, 1993.

- 2. The matter was accordingly taken up in the Court of Shri Justice Shyamal Kumar Sen on 23rd September, 1993. During arguments, Hon'ble Judge asked for production of original records relating to the conferment of Bharat Ratna posthumously on Netaji. Even though I had taken the relevant records along with an Affidavit duly signed and sworn by H.S. claiming privilege under Sections 123 and 124 of the Indian Evidence Act, 1872 as also under Article 74 of the Constitution, the same was not filed by the Senior Panel Counsel, Shri R.N. Das, since he felt that we should claim absolute privilege and not part privilege because according to the practice in the High Court at Calcutta, the moment this affidavit is filed, a copy thereof will have to be provided to the other party also who will definitely dispute this privilege claim unless it is an affidavit for claiming absolute privilege. However, while Shri Das was able to get some more time for filing affidavit on behalf of Secretary, Ministry of Home Affairs and Secretary, Ministry of Human Resource Development, he also claimed privilege in respect of these records with the submission that records will be produced only for perusal of the Court but the Petitioner disputed the same. It is now for Hon'ble Shri Justice Sen in case we do not claim absolute privilege to decide after perusal of the records as to whether privilege claimed is to be allowed or not.
- On 21st January, 1993, when this matter was heard in the Court of Shri Justice Umesh Chandra Banerjee, he directed the Petitioner to serve a copy of the writ petition on Ld. Attorney General for India by 25th January, 1993. Subsequently also, Shri Bijan Ghosh addressed a letter to Attorney General which was returned to Ministry of Law by PS to Attorney General and the Law Ministry forwarded these papers to this Ministry for taking urgent steps to attend to this matter. Even though, we are attending to the writ petition of Shri Bijan Ghosh and others in this Ministry, it is still on record that Attorney General for India has also been impleaded as a Respondent and it is, according to Senior Panel Counsel at Calcutta (Shri R.N. Das) who is handling this case on behalf of Union of India, necessary that Ministry of Law and Justice should look into this matter and ensure attendance of Attorney General on 29th September, 1993 or someone else on his behalf. This aspect needs very careful examination in the Ministry of Law & Justice. We may, if approved, make a formal reference to that Ministry as per draft d.o. letter placed below for consideration.
- 4. Similarly we may formally write to Ministry of Human Resource Development since Hon'ble Court has directed for filing of an affidavit and to produce all relevant records in connection with this case which is now listed for 29th September, 1993. A draft d.o. letter is placed below for consideration. (The matter was discussed with JS(A), and as directed by him, I sent a d.o. letter to Deputy Secretary, Education to-day itself.). A reply has also cince been received.
- 5. While I was apprising JS(A) on telephone of the



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proceedings in the Court on 23rd September, 1993, he directed me to bring a copy of all the orders issued by the High Court in this matter. Accordingly, I found after perusal of the file that six in all have been issued by the Court in this matter on 21st January, 4th February, 5th July, 2nd August, 1st September, 1993 and the last on 23rd September, 1993. While orders dated 4th February, 1993 and 2nd August, 1993 were available with me and two orders dated 1st & 23rd September, 1993, were issued by the Court on 23rd evening and were given to me by Shri Kundu, copies of the orders dated 21st January, 1993 and 5th July, 1993, could not be made available to me even after repeated requests to Shri Kundu including Shri S. Gooptu, Senior Central Government Standing Counsel at Calcutta. Copies of these orders were not available with Senior Panel Counsel, Shri R.N. Das.

- During arguments, Hon'ble Shri Justice Sen was very on the point of issue of cancellation of Press emphatic the Communique since a formal announcement was earlier made regarding conferment of this award on Netaji Subhas Chandra Bose by a Press Communique dated 22nd January, 1992. The petitioner was also very vehemently pointing out that the Prime Minister, Shri Morarji Desai in his statement on the floor of the House has discarded these two reports as not conclusive on account of certain reasonable doubts and additional records etc. which had become available. He also stated that the then Minister of State (Shri Dhanik Lal Mondal) also in reply to a Parliament Question on 11th April, 1979, had categorically stated that 'in the light of reasonable doubts cast on the correctness of the conclusions reached in the two inquiry reports on the death of Netaji Subhas Chandra Bose, Government find it difficult to accept that the earlier conclusions are decisive....'
- Justice Shyamal Kumar Sen, it is now necessary that the original records be filed on the next date of hearing on 29th September, 1993 or if privilege is to be sought, an Affidavit duly sworn-in by Home Secretary is finalised because any further request for time appears a non-possibility. In this Affidavit, while claiming privilege, delay part has also to be suitably taken care of as to why this Affidavit on behalf of Secretary, Ministry of Home Affairs could not be filed earlier. In this Affidavit, if considered appropriate, it can be stated (with the approval of Home Minister) that a statement not to proceed any further in the matter of conferment of Bharat Ratna on Netaji Subhas Chandra Bose and to treat the matter as closed will be made on the floor of the House in the next Session of Parliament.
- As regards the then Prime Minister's socalled statement and the reply given to a Parliament Question by the then Minister of State referred to earlier, it would be relevant to state that on the issue of bringing back the ashes of Netaji Subhas Chandra Bose, the matter was considered in the IS Division by the note for the Cabinet Committee on Political Affairs, prepared in February, 1992. This note stated in para 11 thereof that as regards the death of Netaji Subhas Chandra Bose, it has already been inquired into by Netaji Inquiry Committee and Khosla Commission and the Government have already accepted its findings that Netaji died in an aircrash at Taihoku on 18th August, 1945 and that on account of the then prevalent considerations it would not be advisable to bring back the ashes of Netaji to India, the Cabinet Committee on Political Affiars

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approved the said proposal. This position, which is latest after 1978-79 can be made use of to counter the above contentions of the petitioner with reference to the Statement of Shri Morarji Desai and reply of Shri Mondal.

- As according to Shri R.N. Das, hearing on 29th September, 1993, is crucial and he is expecting a decision this way or that way, he suggested that besides the undersigned, it would be advisable that a Senior Officer viz. JS(A) could also make it to Calcutta so that he could have a detailed briefing in the afternoon of 28th September, 1993.
- The above position may kindly be seen for information and 10.

orders.

(V.P. Bhatia)

Under Secretary/24-9-1993.

S.No. 40 (Recall)

Secretary 23-91993, I took this case personally to the Law Ministry yesterday and had a detailed discussion with the Deputy Legal Adviser. The Legal Adviser (Dr. Jain) was on leave. However, I spoke to him at length over the telephone and as advised by him, I contacted the Central Agency Section for I spoke to him at length over the telephone and as advised by him, I contacted the Central Agency Section for entrusting this case to one of the Law Officers.

- The Deputy Government Advocate in the Central Agency Section got in touch with Shri Altaf Ahmed, Additional Solicitor-General and fixed up an appointment at 11.00 AM today for discussing the case.
- The case was discussed in great detail today by me with 3. the Additional Solicitor-General. While I was with him, the Attorny-General himself spoke to him about this case over the telephone; the Deputy Government Advocate had briefed the Attorney-General also about the developments in this case.
- Based on the suggestions made by the Additional Solicitor-General, I have redrafted the Affidavit claiming privilege in respect of the records pertaining to the declaration of the Award of Bharat Ratna posthumously to Netaji Subhash Chandra Bose.
- I would request the Additional Solicitor-General kindly to see the revised draft placed below and settle it finally.

(M. Venkateswara Iyer) Joint Secretary (A) September 25, 1993.

Additional Solicitor-General (Shri Altaf Ahmed) through Central Agency Section.

A revised draft of the affidavit claiming privilege from disclosure of certain official record has been shown to me by Shri M. Venkateswara Iyer, JS(A) and Shri P. Parmeshwaran, Dy. Govt. Advocate. It is a marked improvement on the previous draft and is substantially in accord with a similar affidavit of privilege filed by Shri Madhav Godebole in another case of I.B. before the Central Administrative Tribunal, Principal Bench in A.K. Kaul vs. Union of India. I had settled that affidavit myself. I have suggested certain further additions to the revised draft which have been noted by both S/Shri Iyer and Parmeshwaran. Subject to those additions the revised draft affidavit is in order.

(Altaf Ahmed)
Addl. Solicitor General
26.9.93

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May kindly see notes from page 36/N.

- 2. Fair copy of the revised Affidavit (claiming privilege in respect of the records), settled by the Additional Solicitor-General may be submitted to HS for his kind approval and signatures.
- 3. The next date of hearing fixed by the Court is 29.9.1993 (Wednesday, day after tomorrow).
- 4. The case was further discussed yesterday with the Additional Solicitor-General. The following further actions were decided upon:-
- (i) The Affidavit claiming privilege will be filed in the High Court on Wednesday (29.9.1993).
- (ii) If the High Court does not allow the claim of privilege appeal will be made to the Supreme Court.
- (iii) The Attorney-General of India who has been made a respondent in this case will be represented in Court on 29.9.1993; the Attorney-General will make his own arrangements for this purpose.
- (iv) After filing the Affidavit claiming privilege, the High Court will be requested to adjourn further hearing.
- (v) On the next date of hearing (after adjournment), the Additional Solicitor-General himself will appear on behalf of the Union; possibly, he will also represent the Attorney-General.
- 5. Shri L.B. Sinate, Director, may be deputed to go to Calcutta and take with him the sworn affidavit of HS, claiming privilege in respect of the records. Our Counsel, Shri R.N. Das, will appear in Court on 29.9.1993, and file it. Shri Sinate will fully brief Shri Das. He will also carry with him the citations of the latest case law on the subject of privilege which the Additional Solicitor-General



(from prepage)

has given, and will hand them over to Shri R.N. Das for studying the same before appearing in Court.

> percepted maces (M. Venkateswara Iyer) Joint Secretary (A) September 27, 1993.

AS(ACS) from lage 36/N

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5. No. 44 (Recept) - 1634-69/100

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Reference notes on page 37-38/ante.

As directed, I went to Calcutta to attend the court hearing fixed for 29th September, 93 regarding the writ petition No. CO.6720 (W) of 1993 filed by Shri Bijon Ghosh and other V/s Union of India.

- 2. The affidavit from the Home Secretary claiming privilege on documents/records relating to the subject and also a counter-affidavit on the application of Shri Sunil Krishna Gupta were filed on the day of the hearing.
  - 3. Shri K.T.S. Tulsi, Additional Solicitor General of India represented Government of India and the Attorney-General. He was assisted by the lawyers engaged by us.
  - 4. A copy of the Court's order has been brought by me (Slip 'A'). The following points in this Order call for further action:-
    - (i) The Home Secretary and the Secretary (Education) in the Ministry of Human Resources
      Development are required to file seperate affidavits by 23rd November, 1993 as @ ordered by the Court on the 1st September, 1993 hearing. This is on the issue of non-production of relevant records on the case.
    - (ii) Copies of Khosla Commission notification and/or notification awarding Bharat Ratna to be supplied to the petitioners within a week.
    - (iii) The copy of the press communique issued by the Rashtrapati Bhavan also to be supplied to the petitioners and the added respondents within a week.
      - (iv) If there is another notification awarding Bharat Ratna, a copy to be supplied to the petitioner and also to the added respondents within a week after the vacation i.e. 23.11.93.
        - (v) Records are to be produced on the next hearing i.e. 6th December, 1993.

5. As regards point (i) above, the Secretary (Education), Ministry of Human Resources Development may also be given a copy of the judgement for action on his part.

As regards point (ii) above, we are aware of the notification appointing the Khosla Commission and that there is no notification made awarding Bharat Ratna to Shri Subhash Chandra Bose. There should be no objection in giving a copy of the notification in respect of the Khosla Commission.

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#### (fromprepage)

- 7. As regards point (iii), the press communique issued by the Rashtrapati Bhavan, which is a public document, may be supplied to the petitioner and others.
- 8. As regards point (iv) above, no notification has so far been issued awarding Bharat Ratna to Shri Bose. The question of issue of another notification is not relevant. No action is required on this point.
- 9. As regards point (v) above, action will be taken as directed by the Court on the day of the next hearing i.e. 6th December, 1993.
- 10. Any application for amendment and supplementary affidavits from the petitioner and added respondents are to be filed by them by the 23.11.93. They are also to file their affidavit disputing the claim of privilege of holding the records and that they were directed to serve copies of their respective affidavits to Prof. Samar Guha who was permitted by the Court to be an added respondent.

11. It may be of interest to see the press clippings which appeared on the 30th September, 1993 in the issues of Telegraph and the Statesman.

( L.B. SINATE )
DIRECTOR (O&M and Vig)
1.X.1993

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Reference notes on pages 39-40/ante.

- Out of the various points requiring follow up action in the order dated 29th September, 1993 of the Calcutta High Court, there are the following two points which require very early action since compliance thereof is required within a week from the date of the issue of the order:-
- (i) Copies of Khosla Commission Notification and/or Notification awarding Bharat Ratna to be supplied to the Petitioners within a week and
- (ii) Copy of the Press Communique issued by the Rashtrapati Bhavan also to be supplied to the Petitioners and the added Respondents within a week.
- 3. We may send copies of the Notification appointing Khosla Commission and a copy of the Press Communique issued by the Rashtrapati Bhavan to Shri Bijan Ghosh, the Petitioner and other added Respondents. A draft letter forwarding these documents is placed below for consideration.
- 4. In its order dated September 29, 1993, the Hon'ble Court admitted Prof. Samar Guha also as an added party Respondent in this writ petition. It is for consideration whether a copy of the above documents may be supplied to Prof. Samar Guha also.

(V.P. Bhatia)

Under Secretary/5-10-1993.

Director(OGM & Vig.)

After recording the above note, a d.o. letter from Shri K.T.S. Tulsi, Additional Solicitor General of India, has been received about his attending the hearing in the Court of Justice Shri Shyamal Sen on 29th September, 1993 in the matter of C.O.No.6720(W) of 1993, Bijan Ghosh Versus Union of India.

- 2. A perusal of the first para of this letter refers to a Notification accepting Khosla Committee (Commission) Report. It has been mentioned further that the Petitioner sought leave of the Court to challenge the validity of the Notification by which the Khosla Commission's Report was accepted by the Government of India. In the same para, Additional Solicitor General mentioned that a copy of the Notification has already been placed by him on the record of the Court.
- 3. There are certain other points also in the letter regarding an additional Affidavit to be filed by the Home Secretary and another Affidavit to be filed by the Secretary, Education in the Ministry of Human Resource Development. According to the Court order dated 29th September, 1993, these Affidavits can be filed by 23-11-1993. Necessary follow up action on this requirement will be taken later.
- 4. Reverting back to reference to the Notification accepting Khosla Committee Report, referred to earlier, the position is that there is only one Notification by which Khosla Commission was appointed in the year 1970. After submission of the report by Justice Khosla, its subsequent process; acceptance of its

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findings by the Government; laying of the Report of the Commission on the Table of both the Houses of Parliament and also a Memorandum of Action Taken Notes thereon laid on the Table of the House are documents which are not covered anywhere in the socalled Notification said to have been laid by the Additional Solicitor General on the Record of the Court. What has been placed on the record of the Court by Additional Solicitor General is not clear from his communication.

5. As already proposed in my Note recorded earlier, the documents, as mentioned in the draft letter submitted in the file, if approved, may be sent to the Petitioner, Shri Bijan Ghosh and other added Respondents so that the dead line of one week for supply of these documents is complied with.

Submitted.

1 Bhutin ( V.P. Bhatia ) Under Secretary/5-10-1993.

Director(OM & Vig.)

Rep above:

I am meeting this Tulse at 6:30 Pm. today, the matter may be finalised there apter.

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Disrussed mik shi Trelie, Adl. Soliche-Gonal The 'notification' mentioned in his letter, in fact, relates to the 'memorundum of action taken on the report of the Khosla Romminion. He feels that the mention made in the his letter should be ignored.

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5. No. 46-47 (188W)

Reference Director (O&M & Vig.) note dated 1st October, 1993, on pages 39-40/ante.

The points in the Court Order dated 29th Septemer, 1993, which require follow up action have been listed in para 4 of that note.

Copies of Kholsa Commission Notification and/ or Notification regarding Bharat Ratna and copy of the Press Communique issued by the Rashtrapati Bhavan (mentioned at (ii) & (iii) under para 4) have already been supplied to the petitioner and the added respondents as directed by the Hon'ble Court in the said Order. Action remains to be taken on points (i), (iv) and (v).

3. As regards Affidavit to be filed by Secretary(Education), Ministry of Human Resource Development, we may supply a copy of the Order dated 29th September, 1993, to that Ministry for initiating action to file their Affidavit by 23rd November, 1993. A draft d.o. letter as from Director (O&M & Vig.) is placed below for consideration.

As regards the Affidavit to be filed by Home Secretary by 23rd November, 1993, as ordered by the Court on its hearing on 29th September, 1993, it may be stated that an Affidavit duly sworn in by Home Secretary claiming privilege for certain documents to be produced before the Court, since the Court Order is very specific despite filing this Affidavit on 29th September, 1993 and since Additional Solicitor General has also in his letter dated 30th September, 1993, specifically pointed out that an additional Affidavit should be filed by the Home Secretary explaining the delay in taking steps to comply orders of the Court on three earlier dates, a draft Affidavit has been prepared as from Home Secretary which may kindly be seen and as advised by Additional Solicitor General, the same may be got settled from him before submission to Home Secretary.

4. As regards (v) under para 4, which is about production of records on the next hearing on 6th December, 1993, necessary action will be taken as directed by the Court.

Submitted.

( V.P. Bhatia ) Under Secretary/14-10-1993.

Director(O804 & Vig.)

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Reference notes on pre-page.

- 2. Ministry of Human Resource Development (Department of Education) have been requested formally to initiate necessary follow up action in the matter of filing an Affidavit on behalf of Secretary(Education) as ordered by the Hon'ble Calcutta High Court in its order dated 29th September, 1993 (page 382-383/cor.).
- 3. The file is re-submitted as regards the Additional Affidavit proposed to be filed by Home Secretary. This additional Affidavit is required to be filed by 23rd November, 1993, as per orders dated 29th September, 1993, by the Hon'ble High Court of Calcutta.

(V.P. Bhati

(V.P. Bhatia) Under Secretary/18-10-1993.

Director(O&M & Vig.)

J. 5 (A)

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The draft Affidavit, placed opposite, may kindly be vetted by the Additional Solicitor-General. The factual position has been brought out in the Affidavit.

2. It is a fact that the High Court's order dated 2 August,

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- 2. It is a fact that the High Court's order dated 2 August, 1993 was not received in this Ministry either from the High Court directly or from the Central Government Advocate. A copy was, however, received from the petitioner himself in September, 1993. By the time it was received, it was too late to take any action on it; it was received by us only after the hearing on 1 September, 1993 has already taken place.
- 3. The Affidavit has to be filed in the High Court by 23 November, 1993, as per the order of the High Court dated 29.9.1993. All other actions required to be taken in accordance with the High Court's order dated 29.9.1993 have already been taken.
- 4. For information it may be stated here that there is no gazette notification in respect of the award of Bharat Ratna to Netaji Subhash Chandra Bose. As the Additional Solicitor-General is already aware, the matter never reached the stage of notification.
- 5. There is also no notification regarding the decisions taken by the Government on the recommendations of the Khosla Commission. A Memorandum of Action Taken on the report of the Khosla Commission was laid before Parliament. However, it was not a Notification; it was a Memorandum.
- 6. If necessary, I can come and discuss the matter with the Additional Solicitor-General at any time convenient to him.

(M. Venkateswara Iyer)
Joint Secretary (A)

Shri K.T.S. Tulsi, Additional Solicitor-General of India MHA ID No. 1/27/91-Public dated 20.10.1993.

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#### OFFICE OF THE ADDL. SOLICITOR GENERAL

I have discussed the matter with Mr.L.B. Sinate, Director and Mr.V.P.Bhatia regarding the affidavit to be filed in the Calcutta High Court in persuance to the High Court Order dated 29th September, 1993. The draft affidavit does not meet the requirement of the order of the High Court.

The definite direction of the Court is that the Home Secretary should file an affidavit explaining the reasons why the order of the High Court dated August 2, 1993 was not complied with. It is unfortunate that in the affidavit of the Home Secretary dated September 27, 1993, no explanation regarding non-receipt of the order of the High Court dated August 2, 1993 was mentioned. Had that been done, the matter would have been over. In any case, the Court has become sensitive about repeated non-compliance of its order and is, therefore wanting the strict compliance of the explanation in writing. Although, the explanation was given by me to the Court regarding non-receipt of the order dated August 2, 1993 and the earlier orders passed in this case, the Court insisted on written explanation being filed because it has already been so directed to be filed. Non-compliance with the order once again will only complicate the matter. I, therefore, advise the following:-

- a) That the additional affidavit, as advised by me in my earlier letter dated **30**th September, 1993 may be filed by the Home Secretary and not by the Deputy Secretary.
- b) The additional affidavit may incorporate the reasons for failure to comply with the various orders passed by the Court.
- c) An affidavit of the Secretary(Education) in the Ministry of Human Resource Development may also be filed.

Central Ameney

The revised affidavit may be got settled from me.

(K.T.S.TULSI)
Addl.Solicitor General
21.10.1993

Mr. L. B. Snate Mr. L. B. Snate Mr. J. Hume Affeing

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· Note on p.37 | Notes

The affidavit of Home Secretary dated 27.9.1993 is an affidavit claiming privilege in respect of the documents which the Hon'ble Court had asked this Ministry to produce. The affidavit was settled by the Additional Solicitor-General, Shri Altaf Ahand, and it was filed in the High Court on 29.9.1993. It is respectfully submitted that the affidavit claiming privilege is not the proper place for explaining the reasons for delay in the production of records. In any case, it is not the intention of this Ministry to produce any records. It is precisely for this reason that privilege is being claimed in respect of the records.

(from prepage)

- 2. Since the Hon'ble Court (by its order dated 29.9.1993) has directed that an affidavit, as per order dated September 1, 1993, should be filed, a draft affidavit has been got ready and is placed below. In effect, this is merely an affidavit explaining the reasons why the claim of privilege was not made earlier. There have been communication gaps between the Central Government Advocate at Calcutta and this Ministry; these communication gaps are responsible for not claiming privilege even earlier. The position has been correctly and truthfully brought out in the draft affidavit placed below. In our view, the Under Secretary in the Ministry is fully competent to sign the affidavit. In fact, all the counter\_affidavits filed in this case have been signed by the Under Secretary.
- 3. When the affidavit claiming privilege was settled by Shri Altaf Ahmed, Additional Solicitor-General, the understanding was that he would take charge of this case on behalf of the Government of India and would appear in the High Court at Calcutta. Due to other engagements, however, he could not appear in the High Court on 29.9.1993. However, during discussion with him when the Deputy Government Advocate was also present, he had made it very clear that he would be in a position to appear at the next date of hearing. The next date of hearing is 6th December, 1993.
- 4. In the circumstances, it would be appropriate to request Shri Altaf Ahemo, Additional Solicitor-General, to appear in the High Court on behalf of Government of India. The draft affidavit, placed below, may also kindly be settled by him.

(M. Venkateswara Iyer)
Joint Secretary (A)
November 2, 1993.

Shri P. Parmeshwaran, Deputy Government Advocate.

MHA ID No. 1/27/91-Public dated 2-11-1993.

#### Central agency Section

The Learned Addl. Solicitor General may kindly see the note above requesting him to appear in the above matter before the High Court of Calcutta as well as settle the draft the affidavit placed below.

(P. PARAMESWARAN)
ADDL. GOVT. ADVOCATE
04.11.93

Shri Altaf Ahmed Addl. Sclicitor General × 511p'A'

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available to appear ance before the High Court of

Calcutta on December 6, 1813

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Additional Solicitor General, Shri Altaf Ahmed's note above may kinly be seen.

- 2. This case last came up for hearing in the Calcutta High Court on 29.9.93 when the affidavit of Home Secretary claiming privilege in respect of the records relating to the award of Bharat Ratna to Subhash Chandra Bose, was filed.
- 3. The claim of privilege will be discussed at the next hearing fixed for 6 December 1993.
- 4. By its order dated 29.9.93 the High Court has asked both Secretary, MHA, and Secretary, Education, to file separate affidavits explaining why the order passed by the Court on 2.8.93 was not carried out.
- 5. The order of the Court dated 2.8.93 required the production of records relating to the Award of Bharat Ratna to Subhash Chandra Bose. This order was received by us neither from the Court directly nor from the Central Government Advocate at Calcutta. A copy was, however, received from the petitioner but it was received only in September, 1993. It was, therefore, not possible to take action to claim privilege earlier.
- 6. The affidavit to be filed has been settled by the Additional Solicitor General(Shri Altaf Ahmed). He is of the view that the affidavit should be signed by HS. Fair copy of the affidavit is placed below for kind signature of HS. The affidavit has to be filed by 23.11.93.

(M. Venkateswara Iyer)
Joint Secretary(A)
19.11.93

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( from overleaf) 1. togged. Pl do not close a note at the end of a page. fr 2011 J=1A) 20/1/22 oir(on) S. No. 49-50 (Receipts) 1 38 USCPule S. No. 51 (Issue) - pp. 393-97 In the course of the Flag Code - India hearing today in the Supreme Court, Sh. P. Parmeshwaran stated that the Transfer Petition relating to award of Bharat Patria to Nelaji Subhash Chandra Bose is likely to come up for hearing tommorrow je. 8.2.1996. May pl. see for information. Athasup #12191 USERADO DS (oem evig) lesse 7/2/96

Extracts from Lok Sabha Debate dated the 11th April, 1979.

Ashes of Netaji Subhash Chandra Bose

6626. SHRI K.T. KOSALRAM: Will the Minister of HOME AFFAIRS be pleased to state:

- (a) the action taken on the suggestion of General Fujiwara of the Japanese Imperial Army, the custodian of the ashes of Netaji Subhash Chandra Bose for ceremoniously handing it over to the Government of India;
- (b) whether the Chief Monk, Matsusuki of Renkoji Shrine near Tokyo under whose care the urn containing the ashes is being kept has been contacted for this purpose; and
- (c) if so, when the Government of India are going to receive the urn of ashes?

THE MINISTER OF STATE IN THE MINISTRY OF OF HOME AFFAIRS (SHRI DHANIK LAL MANDAL):

- (a) In the light of reasonable doubts cast on the corectness of the conclusions reached in the two inquiry reports on the death of Netaji Subhash Chandra Bose, Govt. find it difficult to accept that the earlier conclusions are decisive. It will, therefore, not be possible to take any action at present on the suggestion of General Fujiwara.
  - (b) and (c). Do not arise.

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2 2 FEB 1993

Dear Professor Samar Guha,

Kindly refer to your letter dated 21st November, 1992 regarding disappearance of Netaji Subhash Chandra Bose.

2. The suggestions stated in your letter, have been examined in this Ministry. Government have already had two enquiries on the disappearance of Metaji Subhash Chandra Bose. The Government have accepted the report that Metaji Subhash Chandra Bose died in an air-crash on 18th August, 1945 at Taihoku. It is felt that no useful purpose would be served by any fresh imitiative in the matter.

With regards,

Yours sincerely,

( S.B. CHAVAN )

Professor Samar Guha,
Ex-Member of Parliament,
(Lok Sabha),
8/2, Central Park,
CALCUTTA - 700 032.

जाने किया

FHH 1993 \*

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From

SECRET

Sardar Fateh Singh, Deputy Secretary to the Government of India.

To

All States Parts A, B, C and D.

New Delhi-2, the 24th February, 1954.

Subject: - Institution of awards "Bharat Ratna" and "Padma Vibhushan".

Sir,

I am directed to enclose for the information and guidance of the State Government, a copy each of the notifications of the President's Secretariat No. 1-Press/54 and No.2-Pres/54 dated the 2nd January 1954, regarding the institution of the awards "Bharat Ratna" and "Padma Vibhushan". These awards are not to be regarded as titles in terms of Article 19(1) of the Constitution.

2. The regulations published in the notifications referred to in para. I above fully explain the features of the two orders:

#### (1) BHARAT RATNA.

The decoration will be in the form of a gold medal designated "Bharat Ratna". This will be the highest civilian award corresponding to the "Order of Merit". It will be awarded for exceptional services towards the advancement of art, literature and science and in recognition of public service of the highest order. To ensure that this award is not made cheap, the number of annual awards will be restricted to a maximum of three in any particular year. It is also not necessary that there should be an award every year but, at the same time, there need not be any strict final limit.

The recommendations for the award of "Bharat Ratna" will be made by the Prime Minister himself who will be free to consult any one he chooses. No formal recommendations for this are necessary.

#### (ii) PADMA VIBHUSHAN (Order of the Lotus).

This decoration will also be in the form of a medal and styled and designated "Padma Vichushan". It will be awarded for distinguished public service in any field including service rendered by Government servants. It will be in three classes, namely, "Pahela Varg", "Dusra Varg" and "Tisra Varg" for which the Medals will be in gold, silver and bronze respectively. It is essentially a civil order and it can be given to any person including Government pervants. The intention, however, is to keep the list as small as possible so as not to cheapen the award. The award is to be given for special services and not merely for long service. It is desirable that, even in the initial stage, the awards should be not only to Government servants but others. These others can be persons who are conspicuous for doing something in the nature of social service or developmental work, eminent scientists, doctors, engineers, social service workers, persons who have done particularly well in the community projects and the like.

The procedure for the submission of recommendations for this award will be similar to that followed in the case of the "Ashoka Chakra", viz., the State Governments and the Central Ministries will forward their recommendations (supported by

citations ..../-

citations giving full reasons) to the Home Ministry, who will take steps to place them for consideration before a Committee of advisers, whose Chairman will be the Home Minister, before submission to the Prime Minister and the President.

It has been decided that the awards of "Bharat Ratna" and "Padma Vibhushan" (all the three Vargs) should be made only once a year on the Republic Day. The recommendations of the State Governments in respect of "Padma Vibhushan" should, reach the Home Ministry before the 1st of October every year for necessary action.

Since, however, the awards were instituted only early in January this year and there was consequently no time for making the awards on the Republic Day, (26th January) 1954 it has been decided that there should be an extra award of "Padma Vibhushan" (all the three Vargs) on the Independence Day (15th August 1954) also this year. The State Governments are, therefore, requested to submit their recommendations for this particular award so as to reach the Government of India by the 1st of June 1954 at the latest. Their normal recommend tions for the awards to be made on the Republic Day next year can then, in the usual course, be submitted before the 1st of October, 1954.

Yours faithfully,

(Fatch Singh)
Deputy Secretary to the Government of India.

No.39/26/53-Public. New Dolhi-2, the 24th February, 1954.

Copy to all Ministries of the Government of India, including the Ministry of Finance (Defence); (Revenue) and I and C Livisions; Department of Economic Affairs; Department of Parliamentary Affairs; Cabinet Secretariat; Prime Minister's Secretariat; Parliament Secretariat; Partition Secretariat, Director, Intelligence Bureau; Director of Co-ordination (Police Wireless); Director, Secretariat Training School; Commandant, Central Police Training College, Mount Abu; Inspector General, Special Police Establishment; Principal, I.A.S. Training School; Union Public Service Commissin; Military Secretary to the President; Secretary to the President; Establishment Officer to the Government of India; Comptroller and Auditor General; Supreme Court; Election Commission; Planning Commission; Council of States Secretariat; and Backward Classes Commission, for information and necessary action.

... A Natharjan

Under Constant to the Government of India.

K.23/2/54.

M. Venkateswara Iyer, Joint Secretary (Adm?), Tel.No.3015785

D.O.No.1/27/91-Public

New Delhi, the 16th March, 1993.

Dear Shri Surie,

I am enclosing a copy of the Writ Petition filed in the High Court at Calcutta by Shri Bijan Ghosh against the Union of India against conferment of Bharat Ratna (Posthumously) on Netaji Subhash Chandra Bose and the mystery about the death of Netaji Subhash Chandra Bose.

- 2. A perusal of this Writ Petition indicates that there is a mention therein about entry of Netaji Subhash Chandra

  Bose in the then Soviet Russian territory via Manteria, under Manchuria the camouflage of the report of his aircrash death on 18th August,

  1945. The relevant paras are 10,11,12,18,20(grounds-XIX,XXII,

  XXIII) and 22.
- 3. As the time at our disposal to file the counter affidavit is very short, I shall be grateful if you could kindly look into the matter personally and have the necessary parawise comments in respect of his so called entry and stay in the then Soviet Russian territory sent to me at your earliest and latest by 18th March, 1993.

With regards,

Yours sincerely,

(M.V. Venkateswara Iyer)

Shri Nalin Surie, Joint Secretary(East Europe), Ministry of External Affairs, South Block, New Delhi.

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# S. No. 1 (Recent) FOR OFFICIAL USE ONLY.

S.P. TANEJA
Information Officer (Home & Personnel)

#### IMPORTANT PRESS CLIPPINGS (LOCAL)

Dated: 22-1-97

With best compliments from:

Principal Information Officer, P.I.B., Government of India Shastri Bhavan, New Delhi.

May be returned with comments/reactions, if any to Information Officer (Phones: 3015692 & 3011011/361 N.B.) and 389423 (Shastri Bhavan) before 4.00 p.m. on the same day.

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### COVERNMENT OF INDIA

Name of the Newspaper Place of Publication Date of Publication

Pioneer

New Delhi

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### No toning down of R-Day

he call by some eminent editors of the Capital for a toned down Republic Day celebration in view of the Ayodhya demolition and the consequent wave of communal violence may be well-intentioned but if accepted by the Government could send the wrong kind of message to the nation. Such a gesture instead of arousing public conscience may instead add to the widespread pessimism that seems to have permeated the country over the past few weeks. This, in fact, is a time to celebrate the birth of the Republic with more vigour than ever before. It must be remembered that the pomp and pageantry of the traditional Republic Day parade every year is associated in the public mind with the assertion of independent in Ha and any attempt to undermine the symbolical value of this is more than likely to be misconstrued. If the aim behind toning down the annual Republic Day spectacle is to express sympathy with the victims of the recent communal riots, the victims may well be justified in regarding this as a hollow gesture. Many others would perceive the half-hearted celebration of 26th January as yet another sign of a crumbling Republic.

There is also the danger of a deliberate move by the Government to turn Republic Day into a lacklustre affair being twisted by the propaganda mills of the RSS-BJP-VHP combine for its own purpose. It is not at all beyond the propagandists of Hindutya to project this as further proof of secular appearement of Muslims since no such drastic step

was taken when temples were destroyed in Kashmir or Hindus killed in Punjab. In the present communally charged atmosphere there are many to buy the pernicious lies spread by the Sangh Parivar and the Government must be careful not to do anything which would add grist to the mill of those who seek to widen the communal divide.

This is not to suggest that the country should celebrate Republic Day this year pretending as if the ravages of the recent communal violence had not happened. If the Government is really interested in highlighting the gravity of the challenge posed to the nation by fundamentalist forces what better way to do this than introducing some special items on this subject in the parade. A tableaux depicting patriots of all religious hues banding together to defeat the designs of Khalistani militants, Kashmiri secessionists, Muslim fundamentalists and Hindu fanatics would be a positive way to get the message across to the people. Distinguished citizens from across the country could also be flown into the Capital to march hand in hand in the parade waving banners proclaiming peace, communal harmony and, above all, a strong and united India. Finally, it is important for the Government to realise that the formalities of celebrating Republic Day in a grand or sombre manner is hardly a substitute for the real task of governance. The best way for the Prime Minister to pay homage to the Republic as well as riot victims is to urgently get down to the business of putting the country back on the rails.

Name of the Newspaper
Place of Publication
Date of Publication

Pioneer

New Delhi

22 JAH 1993

'Dead or alive debate re-surfaces'

## Posthumous Bharat Ratna for Netaji challenged

State Correspondent

Calcutta

"NETAJI DEAD or alive." is a debate which surfaces with irritating regularity in Calcutta every year around his birthday on January 23, this year being no different.

The debate usually takes the form of over-long edit page tracts penned in local dailies by former MP Samar Guha, a Midnapore-based writer of textbooks on science.

However, this year, curiously enough, a writ petition has been filed in the Calcutta High Court before Justice Umesh Chandra Banerjee challenging the validity of the Union Government's decision to confer a posthumous Bharat Ratna on Netaji since this in effect implied that he was dead.

Though the petition was moved by an advocate of Howrah district, the name of Netaji's nephew, Mr Amiya Nath Bose, son of Mr Sarat Bose, and a barrister himself, was appended as a party to the petition, almost as an afterthought, to give the case greater weight.

The petition mentioned the oftrepeated view that it had still not been established that Netaji had perished in the aircrash in August 1945.

Mr Amiya Bose contended in court on Wednesday that Dr Radha Binod Pal, who was attending the War Crimes trial in Tokyo, had an American intelligence report in his possession and had concluded beyond doubt that Netaji had safely landed at Tairen in Manchuria on August 18, 1945.

Again, on July 22, 1946. Ms Khurshid Naoroji, one of Gandhi's secretaries, had written to the well-known journalist, Louis Fischer (who had been President Roosevelt's Press advisor), that Netaji was in Russia.

Reacting to the petition, Mr Amiya Bose's brother, Dr Sisir Bose, who runs the Netaji Research Bureau, said that he studiously ignored any issue connected with guessing Netaji's whereabouts since this made his uncle a laughing matter.

Asked why didn't he discourage his barrister brother from getting involved in such absurd petitions, he said it was futile.

Dr Bose said that every year some people revive the "dead or alive" issue in the hope of extracting "cheap publicity" since anything on Netaji is lapped up by the media. The same people, strangely enough, show no interest in participating in a constructive seminar or workshop on any aspect of Netaji or his work.

Dr Bose said the Netaji Award for 1993 would be jointly given to Colonel Lakhsmi Sahgal and Janaki Athi Nahappan of the Rani of Jhansi regiment, Indian National Army.

The video documentary film "Netaji and India's Freedom" would also be released on the January 23, and the upgraded Freedom Library of the Bureau, and the Bal Gangadhar Tilak Computer Room will be formally inaugurated the same day.

CRASH

FROM

HOME NEW DELHI

TO

SHRI S. GOOPTU
SENIOR CENTRAL GOVT. ADVOCATE
BRANCH SECTT.
MINISTRY OF LAW
4-K.S. ROY ROAD
CALCUTTA

NO . 1/27/9 2-PUBLIC

DATED 28TH JANUARY, 1993

ACCORDING TO A NEWS ITEM APPEARING IN THE ISSUE OF PIONEER
DATED 22.1.1993 PUBLISHED FROM NEW DELHI A WRIT PETITION HAS BEEN
FILED BEFORE JUSTICE UMESH CHANDRA BANERJEE IN THE CALCUTTA HIGH
COURT CHALLENGING THE VALIDITY OF THE UNION GOVERNMENT'S DECISION
TO CONFER BHARAT RATNA (POSTHUMOUS) ON NETAJI SUBHASH CHANDRA BOSE
SINCE THIS IN EFFECT IMPLIED THAT HE WAS DEAD (.) WE SHALL BE
GRATEFUL IF A COFY OF THE SAID WRIT PETITION IS OBTAINED FROM THE
REGISTRY OF THE COURT AND MADE AVAILABLE TO US BY JUICKEST POSSIBLE
MEANS TO ENABLE COVT. OF INDIA TO DEICDE THE COURSE OF ACTION
NEEDED ON ITS PART (.) PLEASE REPLY ABOUT THE POSITION
MESSAGE (.)



Morney

(V.P. BHATIA)
UNDER SECRETARY
MINISTRY OF HOME AFFAIR
NEW DELHI
TELE: 3012421

(शैं क नी क साहित । (V. P. BHATIA प्रकार Und a Secretar मन्त्राल । Ministry of Home Affairs S. K. KUNDU CENTRAL GOVT ADVOCATE SPEED POST 9021 15/B/Home/92 Dated The Secretary, Ministry of Home Affairs,

Government of India Ministry of Law & Justice Department of Legal Affairs Branch Secretariat, Calcutta. 4, K.S. Roy Road, Calcutta - 1 4.2.93.

> गृह मन्त्रालय mistry of Home Affairs नई दिल्ली/New Delbi

> > - 5 FEB 1993

40 ....... sources, sou -----

North Block, New Delhi 110001

005878

Sir,

(w)/92Sub: C.O. No. Bijan Ghosh -VS-Union of India & Ors.

Ref: Telegram No.1/27/92-Public dt.28.1.93

Kindly refer to the telegram issued from your office in connection with the above matter.

Kindly find enclosed herewith a copy of the writ petition and also a xerox copy of the communication by Mr. Amitava Dutta, learned Advocate dt. 21st January, 1993 intimating the order passed on 21.1.93. Kindly look into the matter and give us necessary instructions immediately. The matter is appearing today in the list. Further development will follow but in themeantime necessary instructions should be despatched immediately.

Encl: Copy of the writ petition with a copy of the letter. Yours faithfully,

he son if

PHONE: Res. 75-2681

Residence: 18B, Annada Banerjee Lane, Calcutta-20

Chamber: 7, Old Post Office Street, Calcutta-1

Sni S. K. Kunder, Central Ger Advocate Mirity of how and Julie 4. K.S. Ney Hourd, Celete -1

Doorbir,

Ra : 6.0. No (W) of 1993 Unia of India and Dis ( your fit No 15/B/Home 193)

This is to inform you live les above moter was moved before this hudship to How'be Mr. Juther Umash chandre Barugin on 20 January 1993 as an unlisted motion while in opposed by me on behelf of the Union of Indis.

On hearing the parties, His hudship has an 21,1,93 been pleased to direct the unit petitione to serve copy your wit petition on the ld. Attorney Ground of Indi by Monday 25 Jamy, 1993. and great leave to the petition to consect the course title in course of an day, on the oral fran of Mr. Aminga Nete Boss, Burnists, His headship has been placed to add him as one of an Respondents is the meter, The atmostid application has been adjourned by bornight and it will appear therepter at the top que lin.

heary action. Thereing you, faithfully, Amilan Die Advect

MOSTURAL 12

PHONE: Res. 75-2681

Residence : 18B, Annada Banerjee Lane, Calcutta-20

Chamber: 7, Old Post Office Street, Calcutta-1

To

Mirish of haw and Justice.

A.K. S. Roy Road, Celethi-1

47dm-11993

Dearth

Rej C. O. NO (W) of 1973
Bijon Churk

100 100 1000

(F.No. 15/B/Hane 193)

mentionation oping lette dated 21.1.93 it his orbite mette, I would like to enjoy you that this male come. Up for fines heavy before the Horbite Magazina the Merica ghair. Bacroja his Dry. when I appeared for the their ghair. I on heavy the parties, this huddings has born placed.

(1) to pars our order adding Dr. Susail. Kumar Mith as

(2) direction of the the opposition to be filed by 1 weeks regist thinks with a works the opt and the mith to contain the property by for heavy 6 works hereafter, and

(3) an order directing to Central lich to produce all the trecerds portaining with declaration of the Award Bhand Ratue posterment, to Netry Subh, with Bear at the hond. Frie of beary.

4. Place treat this as nort want and unpertent killy engues that porope instruction rare me and a temperate offices for in thinks of those and the their of theman Reserves Denderment of our me neverny for protinctions and make available all the records for fully action with an telly. Thereby your fent ply

2NG 15/68/Home/93

#### District : Calcutta.

IN THE HIGH COURT AT CALGUTTA

Constitutional Writ Jurisdiction

( Appellate Side )

C. O. /C.R. No.

(W) of 1992;

Subject matter relating to :

Under Group - K Head - Classification List.

In the matter of : Bijan Ghosh

... Petitioner

-Vs-

The Union of India

... Respondent

Advocate-on-Record :

Mr. Bijan Ghosh High Court, Calcutta Bar Association, Room No. 11.

Sdf Byin whosh. Wareats.

#### District : Calcutta

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

( Appellate Side )

In the matter of :

An application under Article 226 of the Constitution of India;

And

In the matter of :

A Writ in the nature of Mandamous ;

And

In the matter of :

A Writ in the nature of Certiorary ;

And

In the matter of :

Any other writ and/or writs, order and/or orders, direction and/or directions;

And

In the matter of :

The highest Civilian Award

'Bharat Ratna' conferred upon

Subhas Chandra Bose posthumously

without having official declaration

by Government of India and/or

admission of His death;

And

Contd. . . 2

In the matter of :

A direction upon the Union of India to declare post-facto the death of Subhas Chandra Bose;

And

In the matter of :

'Right to Know' is an extention of Fundamental Rights;

And

En the matter of :

Bijan Ghosh, Advocate practising at High Court at Calcutta Son of Sri Benoy Krishna Ghosh B-172, B.E.College, Howrah-3.

... Petitioner

-Versus -

The Union of India
represented through the Chief Secretary
President of India,
Rastrapati Bhavan,
New Delhi-1.

... Respondent

To

The Hon'ble A.M. Bhattacharjee, Acting Chief Justice And His Companion Justices of the said Hon'ble Court.

The humble petition of the petitioner abovenamed;

Most Respectfully Sheweth : -

- 1. Your petitioner is Citizen of India and resides permanently in the address given in the cause title. He is an Advocate, practising at High Court at Calcutta.
- The death of Subhas Chamra Bose, the main architect 2. of the Freedom of India, is still a 'unsolved mistry'. It was allegedly reported that Subhas Chandra Bose died at a plane crash on 18th August, 1945 at Taihaku, now called Taipei in Taiwan but the Nation reasonably believes that the actual death of Subhas Chandra Bose was not caused in the reported plane crash. As a result of that different enquiry commissions were held to prove the Death but Findings/ conclusions of them had not been at all accepted by the Government of India as well as the Citizens of India. Awarding a person 'Posthumously' concludes that the person is dead. The Nation have every right to know about the actual Death of the National Hero, the cause(s) of the death, if He is really dead by now. As such this application is made in the National Interest and this application be treated as a Public Interest Litigation.
- pleasure to award 'Bharat Ratna' to Subhas Chandra Bose

on 26th January 1992 posthumously, which concludes that the Government of India is hereby officially submitting that Subhas Chandra Bose is dead. At the same time by awarding him Bharat Ratna, the Highest Civilian honour posthumously, the President of India has declared the other way round, that he is dead. The Government of India before that had not declared any where that Subhas Chandra Bose is dead and had not officially accepted the alleged report of Subhas Chandra Bose's death on air crash on 18th August, 1945, in Taiwan or findings of any commission . There is neither any declaration from any International Government or Authority either that Subhas Chandra Bose died on that air crash nor in any other specific event. Without the specific report of death of Subhas Chandra Bose, the Government of India cannot and should not award him the highest civilian honour posthumously.

4. To unvail the mistry of death of Subhas Chandra
Bose, Shah Nawaz Committee was appointed by the Government
of India to assert the facts related to the plane crash
and/or death of Subhas Chandra Bose in the year 1956 i.e.
after a period of eleven years from the alleged air crash
followed by the announcement by Tokyo Radio. The Government
of India, headed by Indira Gandhi had not accepted the x
report of the Shah Nawaz Committee while setting up the
2nd equiry commission, a one-man functional Judicial
Commission consisting of Mr. Justice Khosla, a retired

Chief Justice of Panjab High Court called as Khosla Commission. The Khosia Commission's report which was submitted in June, 1974 with the findings in favour of alleged air Crash, had also been rejected by the Government of India headed by Morarji Desai. The then Prime Minister, Morarji Desai, in the Loksobha on September 3, 1978 declared that with some contemporary records which had been available, in the light of doubts and contradiction and with those records the Government find it difficult to accept the earlier findings and conclusions of the Shah Nawaz Committee and that of the Khosla Commission and this declaration of Morarji Desai decisively proves beyond all doubts that the death of Subhas Chandra Bose Was not officially accepted and recorded by the Government of India and perhaps for that reasons, the Bharat Ratna could not be awarded posthumously to him before. Hence the question of declaring and/or considering a person dead, if he/she is unheard of 7 years, cannot be arised here. Further to that the Government of India, headed by then Prime Minister, Mr. Chandra Shakher, ordered for a 3rd Enquiry Commission to unearth the 'unsolved mistry' of Subhas Chandra Bose's death, but the official order has not yet been carried out for some administrative reasons.

5. Subhas Chandra Bose was conferred the title 'Netaji'. Ghandhiji said about him " Subhas is the

patriot of Patriote, the prince of Patriots". The people of India have profound regard in Him. He all along had been admitted as a National Hero. He was the main architect of the freedom of India. The Countrymen have become stupied as to what propelled the Government of India to confer the award to him. Award is a recognition conferred to a person for his achievement, contribution and success in any field. An award makes a man glorified, levels a mark of recognition on him and as such every award has it's congenital limitation. But when a personality is higher and greater than any award, conferring the award to that person becomes ridiculous. It becomes an act of carelessness to limit that person ranking with others who had already been awarded and who would be awarded in future. Sometimes conferring award to a person becomes an insult to him, instead of an honour to him. That is why we also find that some persons under some unwanted w situation or in some derogatory circumstances reject such honour or do not receive such award. Award is made to account and recognise the success/contribution/ achievem ent of a man. Has the Government of India now able to measure and success the His contributions to the freedom struggle of India and was his success subject to recognition that to officially. by the Government of Indiax Conferring the sward Bharat Ratna cannot be a 'prize-giving ceremoney'. Reward of the patriot was the freedom of His mother land, it cannot be a functional honour.

6. An Award, whatever may the honour status of that, may not always be a reward to a personality. It could ridicule and rebuke him, it may degenarate, debase and defame him.

It may be derogatory to the person who is awarded if he is much more greater than the award itself. A personality like him should not be ranked with other receipients of Bharat Ratna by confering the award, may it be the highest civilian award, Not necessarily an award would always make the receipient glorified, sometimes it just damage the purpose itself when it turns to a humilikation on the part of the receipient.

Government of India to recognise His success, to fathom his achievements, to reward His contribution to admire His sacrifice. The decision and act of Government of India are really ridiculous and have got no rational basis. Virtually he has been punished by this award. It is not a regard but a sheer disregard to him. The persons, who had been conferred with Bharat Ratna before Him are Examplicate chromologically Radha Krishnan, C. Rajagopalachary, Dr. C.V. Raman, Dr. Bhagaban Das, M. Bisheshwarayya, Jaharial Nehra, Gobindallav Panth, D.K.Karve, Bidhan Chandra Roy, Purushottam

Das Tandon, Dr. Rajendra Prashad, Dr. Rajendra Proshad, Dr. Jakir Hushen, P. V. Kane, Lalbahadur Shastri, Indira Gandhi, V. V. Giri, Kx/Kx Mother Terisa, Binoba Bhave, Khan Abdul Gaffor Khan, M.G. Ramchandran, B.R. Ambedkar, Nelson Mandela, Morarji Desai, Rajiv Gandhi, Ballav Bhai Patel respectively. It cannot be said that all of them were superior to Him or His contributions were less worthy than anybody's amongst the foregoing names. It is also a question to the people that what makes swarding Him Bharat Ratna along with M.A.K. Azad on the same day. They were not at all equal in rank as far the freedom movement of India was concerned. After Him, till date, J.R.D. Tata and Satyajit Ray have been conferred Bharat Ratna. Should the Government of India rank Subhas Chandra Bose with all these persons or with all such persons who would be awarded Bharat Runxia Ratna in future.

Ratna. It was totally an mechanical approach in awarding Him. The Government of India should have meticulously considered whether it would be a regard or disregard in awarding Him Bharat Ratna after 45 years of Independence and that too after awarding the same to a lot of persons. Had he been the first receipient of this award, still it

would be the public reaction that awarding Him is an attempt to limit Him, His success, contribution and attainments. The Government of India should have judge the matter carefully, not mechanically and superficially; the public sentiments, emptions and feelings should have been taken into account before conferring Him any award. Without having any attempt afresh to know about the mistry of His Death, without having any regard to the honour the people have for Subhas Chandra Bose, the Government of India awarded Him and that too posthumously and the award which had been conferred by this time to a number of persons, who cannot be ranked with him by any way. The Government of India has no right and authority to insult a National Hero; to defame and disregard a man who was the main architect of the freedom of India, to hurt the feelings, sentiments and marini admiration of the people of India, to dishonour and humiliate a personality by just attaching a mark of award whereas the award is meant for other persons who needs statutory recognition and honour. The Government of India should reconsider the decision of conferring Him Bherat Ratna and there is no iota of doubt about it that it would be a mark of true respect and honour to Him if He is not leveled with any award. The declaration of conferring Bharat Ratna to Him should be withdrawat/recalled as a mark of true respect and honour to Him.

Your petitioner craves leave to submit the account of public sentiment and feelings as reported in press against dovernment's this decision of Government.

Further to that there was no disclosure of the material facts on the basis whereof the Government of India has chosen to describe the award as posthumous. For some obvious reasons the reports and findings of Shah Nawaz Committee and Khosia Commission were declared not decisive. An importent dignitory in his speech on the occassion of installation of Subhas Chandra Bose's protrait in the Central hall of the parliament in sometime 1977 contained on indications about the uncertainty of his having died in the meantime, rather wishing his homecoming even for a day.

- 9. Subhas Chandra Bose Left his house at Calcutta on 17.1.1941, evading house arrest, reached Japan in May 1943, en-route Afganisthan, Soviet Rusria, Germany, Madagascar and Sumatra.
- After the fall of Japan in August, 1945, since it was not sake for him to stay in any part of East Asia, he left for an asylum, in all probability that was the then Soviet Russia,

it is not just a sentimental belief or mere juncture but there are enough circumstantial evidence, documentary reports and other auxilliary testimonials to accept this conclusion. It is believed that Subhas Chandra Bose successfully managed to enter the then Soviet Russian territory via Manturia under the camouflage of the report of his air crash death on 18th August 1945.

Bose went to the them Soviet Russia and wanted to come back to India sometime in 1945-46, but subsequently, somehow it was managed at any level and he was kept in the then Soviet Russia against his will and for some reasons or others, he was not allowed to come to India. Propelled by this strong impression all the persons who took the matter of Subhas Chandra Bose's death mistery in the National interest, all along wrote the authorities concerned of the then Soviet Russia even to the new born Russia to reveal all the facts and truths related to death mistry of Subhas Chandra Bose. But till date, no such information has been received by the people of India. It is needless to mention that Subhas Chandra Bose was never declared a War Criminal.

12. It was along doubted that the alleged plane crash was a camouflage of the report under which

Subhas Chandra Bose left East Asia and took shelter in any part of the world and the legical conclusion is the then Soviet Russia, which all along was very friendly to Subhas Chandra Bose and he had a profound faith in the Phylosophy of Socialism. All along, different Indians, in representative capacity as well as in individual capacity wrote to the then Soviet Russian authorities that Subhas Chandra Bose was in the then Soviet Russia and should be handed over to the Indian Government. Mr. Samar Guha, an M.P., as a leader of the Socialist Party of the Lok Sabha met Breznav at Rastrapati Bhavan when the later visited India and presented a three-page memorandum on 23.11.1973 with a request that Moscow should reveal all the facts about Him. In which it was outlined the reasons categorically why Indian believe that Subhas Chandra Bose was given shelter by Stalin after escaped from Saibheria on 23.8.45. But no reply was received either from Delhi or from Moscow, neither the request was turned down in writing. The same request was made to Mr. Gorbachev after he came to power which too went un-answered.

13. Freedom and M Democracy are the two things which are complimentary to each other and one can not exist without the other. Freedom is all pervading. It includes the freedom of information. In a Democratic country like

India, where freedom of throught and expression are guaranteed as fundamental rights, which concludes well that freedom of information is also within the meaning of fundamental rights because the resource of thinking thought and expression are information and knowledge. A free and democratic State cannot afford to ignore the freedom of information to Her citizens, specially which is a question of National Interest, more preciously relating to the death of a National Hero, the main architect of the freedom of India. Freedom, in its' true spirit is guaranted in the Constitution as Fundamental Right and as such 'Freedom of Information' should also be honoured as Fundamental Right. The promises of unconditional Freedom in true sense are piling up but the day of fulfilment is no where in sight.

deprived of 'Right to know'. It cannot be said that social justice has been done if there is no right to know, no freedom of information, especially which is a province of National Importance and in no way frelate to the Lylence of Security afters of the State

15. The right to know should be treated with paramount importance and of fundamental hearing in a Democratic Republic. Right to know is as fundamental as Right to life.

The constitution of India had been contemplated in it's preamble:

Justice-social, economical and political. The Justice cannot be ensured without proper freedom of information and right to know. Every citizen has every right to know everything save and except the exclusive defende matters which is the wantst province of security of State. Furnishing information with regard to 'right to know is required for the due discharge of the duties on the part of the Government even if I it is required to obtain from any part of the world. A democratic Republic State cannot promote a tipical kind of 'mental-slevary' to her people by adopting the practice of furnishing edited information. If there is no subjection in free India, if there is no master alave relation between the Government and people in a Republic State, then the people have every right to know. In a Republic, by definition a Government is made by the people, of the people, for the people and as such if the people are not guaranteed of their right to know then by the definition itself the Government does not remain Democratic Republic.

16. The Government of India in Janata Fronts Ministry admitted that right to know the truth is with the perview of fundamental right but that remains more a theoritical declaration.

importance, glamour and glory, struggle and success should not be declared dead in the camouflage of awarding posthumously. Vertually Government is thus striving to conclude all further enquiry commission(s) which could unearth the truth related to his death or his unwilling detention in any countery where he took political Asylam.

18. The Government of India did not care to honour the freedom of information to her citizens. British Government published the documents related to 'Transfer-of-power 1942-47' in 1975 revealing many a documents relating to freedom struggle of India but the Government of India remained idle and indifferent about the documents, deeds published in the said 'Transfer-of-power'. India bean should have asked British Government about clarification and relation of some documents, records and remarks and for unearthing more facts and the truths related to the freedom struggle of India and her political personalities for a review afresh.

India attained 'freedom' by way of Transfer-ofPower. The Government of Britain Transferred the Power to
Government of India, conditionally, interalia, that the
all Documents of 'Transfer-of-Power' would the released
not before 1999, i.e. after 50 years from the enactment of

the Constitutional Law of India. In a civilised world, for an independent contry this is unthinkable and unheard of.

Government of India did not take any attempt to know about the 'unsolved mistry' which is haunting the country for about half a century, whereas all the time all the doubts were hurbered about Subhas Chandra Bose's stay at the then Soviet Russia. The State archieves of the then Soviet Russia's inteligence service, commonly known as K.G.B., which was also very much right and resourceful on international International secrete information, is now accessible to all but the Government of India did take any attempt to investigate, search out information over where about India's freedom strugged or her men, specially of Subhas Chandra Bose.

In a question of National Importance, the State can not ignore her responsibility by deliberately terning her fact back to the mines of information.

19. That no application is pending before this Hon'ble Court or any other Court for the same self cause of action.

- 17 -

20. Being aggrieved by and dissatisfied with the mechanical decision and total non-application of mind on the part of Government of India with regard to conferring Bharat Ratna to Subhas Chandra Bose and that too posthumously without having any official declaration of the death of Subhas Chandra Bose, your petitioner begs to move this application under the Constitutional Writ Jurisdiction amongst the other followings:

## GROUNDS

- I. For that the Government of India has never admitted and declared that Subhas Chandra Bose is dead and without having such official declaration and/or admission, the Government of India can not award him posthumously.
- of mind on the part of Government of India, have prejudiced the profound feelings and admiration of the people throughout the country for Subhas Chandra Bose and Government of India should withdraw/recall the sward conferred to them as a mark of true-honour to Him.

- 18 -

- III. For that the Government of India should not have rank Him with others receipients of Bharat Ratna, should not have limit Him by awarding Him Bharat Ratna, may it be the highest civilian award.
- IV. For that the Government of India should not have awarded Him Bharat Ratna, as His achievements were much more glorious and magnificient than any award.
- V. For that a statutory and functional recognition by way of conferring Him an award has vertually dishonoured Him and as such the Government of India should re-consider the matter de-novo and till such afresh decision the award should not be handed over to anybody on His hehalf.
- VI. For that His contribution and secrifice, success and achievements, struggle and petriotism could not be matched with or ranked by any award, may it be the highest civilion honour, Bharat Ratna.
- VII. For that before conferring Him the award the

  Government of India ought to have consider these

  aspects whether the award itself would reward or

  ridicule Him, would honour or dishonour and defame

  Him, would aprisiate or deprisate Him since every

  award has it's congenial limitations and as such

  award is not meant for every body.

- VIII. For that Bhargt Ratna is the highest civilian award given from the office of President and Subhas Chandra Bose was the main architect of the Freedom of India and as such, such an erroneous and unconstitutional functioning on the part of the Government of India cannot be appreciated.
- IX. For that the Government of India should have declared first that Subhas Chandra Bose is dead, the declaration being substantiated by documents and evidences beyond doubts, before awarding him posthumously.
- A. For that the Government cannot take the plea that
  he is dead in the eye of law as he is unheard of
  more than 7 years from the date of his alleged
  report of death, i.e. from 18th August, 1945,
  since the Government of India did not admit even
  in 1978 that Subhas Chandra Bose is dead and
  subsequently ordered for another enquiry commission.
- XI. For that without having any endeavour to get the true and real facts about the death of Subhas Chandra Bose after the changed International political circumstances which has become conducive

to reveal the facts, the Government of India should not declare him dead by awarding him just posthumously.

- XII. For that by conferring the sward, Bharat Ratna, posthumously to Subhas Chandra Bose is otherwise illegal official declaration of death of Subhas Chandra Bose, which is not at all permissible under the law.
- XIII. For that the Government of India took the camouflage of awarding Subhas Chandra Bose posthumously to put an end to the Enquiry(s) which is yet to be concluded satisfactorily to unvail the truth relating to the alleged report of death of Subhas Chandra Bose.
- XIV. For that conferring the award, Bharat Ratna, posthumously to Subhas Chandra Bose is an unprecedented case of conviction without trial and as such the said award should be withheld unless and untill His death is conclusively proved and officially declared.
- XV. For that the Government of India has never admitted the death of Subhas Chandra Bose after the reports

of Shah Nawaz Committee and Khosla Commission and the Government of India headed by Chandrasekhar ordered for another enquiry commission to be concluded on the unsolved mistry of death of Subhas Chandra Bose and without having the conclusive report of the said 3rd commission, thus ordered, the Government of India cannot declare a person 'dead' by awarding him posthamously.

- XVI. For that citizen of India had the freedom of information and the Government of India cannot afford to neglect the responsibilities and liabilities of furnishing the information, specially which is involved in the National Importance.
- XVII. For that the Government of India cannot sit idle
  in not investigating the 'unsolved mistry' relating
  to the death of Subhas Chandra Bose whereas he was
  the main architect of the Freedom of India.
- XVIII. For that this application is made in the National
  Interest and keeping pace with the National feelings
  and sentiments which all Indians still retain about
  Subhas Chandra Bose.

- XIX. For that before declaring him officially dead in the camouflage of awarding him posthumously, the Government of India should strive to find out in every quarter of the World whether Subhas Chandra Bose is dead or not if dead, when he died, how he died, where he died and what a happened to the dead body.
- XX. For that the Government of India cannot declare a person dead without being satisfied substantially, evidentially and documentarily about the death and cannot declare a person dead by way of awarding him posthumously and as such, the award should be withhold until and unless the death is officialy declared by the Government of India.
- XXI. For that the Government of India our an explanation and obligation to Her people, being a Republic Country, to speak out the truth on the basis of record and evidence and the same can not be circumvented by making a posthumous award.
- XXII. For that it is reasonably believed that Subhas
  Chandra Bose left for the then Soviet Union under
  the camuoflage of the report of the plane crash and

spent the rest of his life over there, may be against his pleasure and the Government of India awarded him posthumously on January 26, 1992 without having any enquiry officially in the political State Inteligence Archives of the then Soviet Union which is now easy accessible to all after the breaking of Soviet Union in December 25, 1991.

XXIII. For that before declaring Him dead the Government of India should order for a commission to be constituted by a g highly technically efficient men for fishing out with all sincerity the information from all possible corners of the Globe which is also very easy available now in the charged International Political situation.

XXIV. For that since the award has been once conferred to Him posthumously, the Government of India can not afford to shrink in discharging it's responsibilities and can not evade it's obligations to find out and establish the truth beyond all doubts about the said 'mistry' even if, the award Bharat Ratna is subsequently withdrawn as a mark of true respect to Subhas Chandra Bose.

Contd. . . 24

21. Your petitioner submits that since the people of India have not admitted and accepted the conferring of Bharat Ratna to Subhas Chandra Bose as a mark of Honour and Recognition to Him, and as such through out the country, irrespective of political faith and belief, the people have critisied this decision and declaration of Government of India and demanded withdrawal and/or cancellation of this award conferred the Him. The question of conferring Bharat Ratna to Subhas Chandra Bose was raised in the floor of W.B. Legislative Assembly and the entire Assembly, without any reservation, conveyed the xxx request to the President of India, who was then in Calcutta, to cancel the Award. A citizen's convention was held on 22nd February, 1992, at Calcutta University contenary Hall to demand immediate withdrawl of the said posthumous award. Neither from His family nor anybody from Government of West Bengal went to receive the award on His behalf on 28th March, 1992 at Rastrapati Bhavan, on the occassion of Bharat Ratna award giving carimony or thereafter. The Authority has decided to handover the award to His family on his behalf on the second occassion, held on 6th April, 1992, at Rastrapati Bhavan finding no other alternative to such situation. But none accepted the award on His behalf. The authority concerned must re-consider the decision of conferring Him Bharat Ratna and to withdraw the same as a special case.

Your petitioner further submits that the fundamental responsibility of Government of India to make a full and faithfull disclosure of all the facts and records. The Word secret, specially in political arina, is a relative factor. Nothing could be secret for infinite time span. The Secret Files/Documents of Government of India of 1950 is no more of that wer secrecy as on today. With the passing of time the necessity of secrety is forfited in itself. If any thing is kept secret perpitually, then it becomes conclusive that the matter is made secret purposively. Award or no award, even the search of a missing citizen must come to an end at some state of conclusiveness. There is no doubt that it would be much honour if His countrymen could know the truth end fact about His misterious disappearance and suspected detention in some foreign country against His will, than to treat the award as posthumous either by presumption or by suppression of facts. It is not known whether there exists an actual mystary or a mystory has been created to hold back the truth from the Indian people. The openion sustains in public m mind in this respect that the most evasive and mysterious stands had been resorted by the Government of India, at least till 1991. It is of no use making any enquiry in a mysterious way to solve a mystry. This not an inexplicable mystry. but the Government of India alone had been striving to make it inexplicable.

23. Although quite in the day the quest for the truth has erisen once again in the context of the announcement about the posthumous award and let us only hope that the quest itself does not turn out to be posthumous or abortive. People have to be told in precise terms and with fullest details if the expression "posthumously" has any legitimate foundation.

24. No demand of justice has been served upon the respondent, since that would be mere ornamental in maintaining the procedure.

25. Your petitioner submits that no other speedy and effective forum is available to him and there will be a total redressal of the Nation wide public grivances and complete justice to a National question.

26. This petition is made bonafide and for the ends of Justice.

Under the aforesaid facts and circumstances, Your petitioner most respectfully prays that Your Lordships may graciously be please to issue;

- 27 -

40

a) A writ in the nature of Mandamous calling upon the respondent authorities to cancel and/or withdraw and/or recall the award, viz. Bharat Ratna which has been conferred on Subhas Chandra Bose on 26th January, 1992, which has not yet been handedover to anybody on behalf of him as a mark of true and fair respect and honour to a man who is beyond any functional award.

- b) A writ in the nature of Mandamous calling upon the respondent authorities to declare officially that Subhas Chandra Bose is dead, since the Government has awarded him posthumously.
- c) A writ in the nature of Mandamous calling upon the respondent authorities to declare the details of Death of Subhas Chandra Bose i.e. when the death occured, how the death occured, where the death occured and what happened to the dead body.

Contd....28

- d) A writ in the nature of Mandamous calling upon the respondent authorities to form and constitute a 'High-level Enquiry Committee' to unearth the truth and facts beyond all doubts related with the unsolved mistry of the death of Subhas Chandra Bose.
- e) A writ in the nature of Certiorari
  calling upon the respondent authorities
  to produce all the records available to
  them related to the death of Subhas
  Chandra Bose, in original, so that
  consignable justice may be administered.
- f) Rule NISI in terms of prayers (a) to (e);
- g) Any other appropriate writ and/or writs as Your Lordships may deem fit and proper.
- h) An adinterim order of injunction restraining the respondent authority from handing over the award to anybody

on His behalf and/or placing the award in National Museum or in some other place.

i) Any other appropriate order and/or orders, direction and/or directions as Your Lordships may deem fit and proper.

And your petitioner, as in duty bound, shall ever pray-

54¢ Bijan Grhosh. g Advocale in person, 18/1/93

# AFFIDAVIT

I, Sri Bijan Ghosh, son of Sri Benoy Krishna Ghosh, aged about 37 years, by Caste Hindu, by occupation Advocate, practising at High Court, Calcutta, residing at B-172, B.E. Eollege, Howrah-3, do hereby solemnly say as follows:

- 1. That I am the writ petitioner and I am well acquinted with the facts and circumstances of the case.
- 2. That the statements made in paragraph Nos. 1 to 6, 8, 13, 14, 15, 17, 24, 26 are true to my knowledge and those made in paragraphs No.7, 9, 10, 11, 12, 16, 18 excepting last paragraph are derived from records and newspapers and rest are my humble submission before this Hon'ble Court.

Edt Bijan Choch in persone
Deponent (Advocate)

Prepared in my office.

Sof Bijan Choch in person (Advocate)

solemnly effirmed before me this the 18 thday of January, 1993.

Commissioner.

## District : Calcutta

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

( Appellate Side )

In the matter of :

An application under Article 226 of the Constitution of India;

And

In the matter of : Bijan Ghosh

... Petitioner

-Vs-

The Union of India

... Respondent



### PETITION

Mr. Bijan Ghosh
Advocate
High Court, Calcutta
Bar Association, Room No. 11.

## Most Immediate/ Court Case

No.1/27/91-Public
Government of India/ Bharat Sarkar
Ministry of Home Affairs/ Grih Mantralaya

New Delhi, the 22nd February, 1993.

Subject:- Writ petition C.O. No. (W) of 1992 filed by Shri Bijan Ghosh in the High Court of Calcutta against the Union of India seeking direction upon the Union of India to declare postfacto the death of Subhas Chandra Bose and to cancel and/or withdraw and/or recall the award of Bharat Ratna conferred on Subhas Chandra Bose (posthumously) without having any official declaration by Union of India of his death and/or admission of his death.

Shri Amitava Datta, Advocate, High Court, Calcutta has sent two communications dated 21st January and 4th February, 1993, in the matter of writ petition referred to above and also a copy of the writ petition filed by Shri Bijan Ghosh against the Union of India. A copy each of these two communications and the writ petition are enclosed.

.......

- 2. A perusal of two letters of Shri Datta would reveal that the matter has already been heard twice on 21st January, 1993 and 4th February, 1993, and on hearing the parties his Lordship Hon'ble Shri Justice Umesh Chandra Banerjee has been pleased to:-
- (1) pass an order adding Dr. Sushant Kumar Mitra as one of the parties and further pleased to pass an order;
- (2) directing affidavit in opposition to be filed by four weeks, reply thereto within two weeks thereafter and the matter to come up for hearing six weeks hereafter; and
- (3) an Order directing the Central Government to produce all the records pertaining to the declaration of the Award Bharat Ratna posthumously to Netaji Subhas Chandra Bose at the next date of hearing.
- In view of the reliefs sought by the Petitioner particularly the appointment of a high-level Committee to enquire into the truth about Netaji's alleged death, it would be appropriate if the writ is dealt with by IS.I Division and a Counter Affidavit in the matter finalised by that Division keeping in view the limitation of time factor i.e. 4 weeks from 4th February, 1993, and filed in the High Court of Calcutta within the prescribed period.

As regards the aspect relating to the conferment of Bharat Ratna (posthumously) on Netaji Subhas Chandra Bose is concerned, the position is that after approval of the name of Netaji Subhas Chandra Bose for conferment of Bharat Ratna (posthumously) by the Prime Minister/President, an announcement was made on 23rd January, 1992. However, after this announcement, the subsequent developments like Netaji's daughter declining to accept the award and criticism in the Parliament and the Press, the matter was reconsidered and with the approval of the Prime Minister and the President, it was decided that the award of Bharat Ratna announced for Netaji Subhas Chandra Bose should not be presented to anybody on his behalf nor should it be deposited in the National Museum or at any other place and that the matter may be treated as closed. Relevant papers on the subject available with us will be made available to IS Division for preparation of reply to the points raised by the petitioner relating to the conferment of Bharat Ratna (posthumously) on Netaji Subhas Chandra Bose.

Joint Secretary to the Government of India.

Sonet PBNO 16/93

Joint Secretary (IS-I), (Shri B.N. Jha)

## MO ST IMMEDIATE/COURT CASE

No. 1/27/91-Public

New Delhi, the

Subject:- Writ petition C.O. No. (W) of 1992
filed by Shri Bijan Ghosh in the High Court
of Calcutta against the Union of India seeking
direction upon the Union of India to declare
postfacto the death of Subhas Chandra Bose and
to cancel and/or withdraw and/or recall the award
of Bharat Ratna conferred on Subhas Chandra Bose
(posthumously) without having any official declaration
by Union of India of his death and/or admission of
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Shri Amitava Datta, Advocate, High Court, Calcutta
has sent two communications dated 21st January and 4th February,
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the Union of India. A copy each of these two communications
and the writ petition are enclosed.

- 2. A perusal of two letters of Shri Datta would reveal that the matter has already been heard twice on 21st January, 1993 and 4th February, 1993 and on hearing the parties Mis Lordship Hon'ble Shri Justice Umesh Chandra Banerjee has been pleased.
  - as one of the parties and further pleased to pass an order;
  - (2) directing affidavit in opposition to be filed by four weeks, reply thereto within two weeks thereafter and the matter to come up for hearing six weeks hereafter; and
  - (3) An Order directing the Central Government to produce all the records pertaining to the declaration of the Award Bharat Ratna posthumously to Netaji Subhas Chandra Bose at the next date of hearing.

3. As the thrust of the grounds advanced and reliefs sought by the petitioner is about the mystry of death of Netaji Subhas the wrift is dealf with by Chandra Bose, it would be appropriate if a Counter Affidavit for the death of a high -2. I have the counter affidavit for committee to engrice into the touth about Netajis alleged death

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in the matter to XXXX finalised in the IS Division keeping in

(e. 4 weeks from 4H Februar, 1913

view the limitation of time factor and filed in the High Court

of Calcutta within prescribed period.

As regards the aspect relating to the conferment of Bharat Ratna (posthumously) on Netaji Subhas Chandra Bose is concerned, the position is that after approval of the name of Netaji Subhas Chandra Bose for conferment of Bharat Ratna an aunouncement (posthumously) by the Prime Minister/President, his name was announced on 23rd January, 1992. However, after this announcement, the subsequent developments involving declining of the acceptance of the award by Netaji's daughter, and criticism in the Parliament and the Press, the matter was reconsidered and with the approval of the Prime Minister and the President, it was decided that the award of Bharat Ratna announced for Netaji Subhas Chandra Bose should not be presented to anybody on his behalf not is should be deposited in the National Museum or at any other place and that the matter may be treated as closed. Relevant papers on the subject available with us will be made available to Is Division for preparation of reply to the points raised by the petitioner relating to the conferment of Bharat Ratna (posthumously) on Netaji Subhas Chandra Bose.

(M. Venkateswara Iyer)
J S(A)

19.2.93

Joint Secretary (IS-I) (Shri B.N. Jha)

was

#### WIRELESS MESSAGE

FROM

HOME

NEW DETHI

TO

SHRI S.K. KUNDU CENTRAL COVERNMENT ADVOCATE BRANCH SECRETARIAT. MINISTRY OF LAW. 4 K.S. ROY ROAD.

CALCUTTA.

NO . 1/27/92-PUBLIC

DATED 3RD MARCH, 1993

REFERENCE YOUR LETTER DATED 4TH FEBRUARY 1993 ENCLOSING THEREWITH A COPY OF THE WRIT PETITION C.O./CR NO. (W) OF 1992 FILED BY SHRI BIJAN GHO SH IN THE HIGH COURT AT CALCUTTA CHALLENGING THE VALIDITY OF THE UNION GOVERNMENT'S DECISION TO CONFER BHARAT RATNA PO STHUMOU SLY ON NETAJI SUBHASH CHANDRA BOSE (.) ACCORDING TO A COMMUNICATION DATED 4TH FEBRUARY, 1993 FROM SHRI AMITAVA DATTA, WHICH WAS ENCLOSED WITH YOUR ABOVE LETTER ADVOCATE. AN AFFIDAVIT-IN-OPPOSITION TO THIS PETITION IS TO BE FILED WITHIN 4 WEEKS (.) AS FINALISATION OF THE AFFIDAVIT-IN-OPPO SITION WILL TAKE SOME MORE TIME IT IS REQUESTED THAT THE HON'BLE HIGH COURT, CALCUTTA MAY BE MOVED TO GRANT EXTENSION OF TIME FOR AT LEAST ONE MONTH (.) PLEASE APPRISE ABOUT THE POSITION AT YOUR BARLIEST (.)



(V.P. BHATIA) UNDER SECRETARY TO THE COVT. OF INDIA MINISTRY OF HOME AFFAIRS NEW DELHI TELE: 3012421

> o पीo भ टिया) (V. P. BHATIA) धवर मचिव Under Secretary वृद्ध मन्त्रालय Ministry of Home Affice

MBhalin

Placed below is a letter dated 22nd February, 1993 from JS(A) enclosing therewith letters dated 21st January and 4th February, 1993 from Shri Amitava Datta, Advocate High Court, Calcutta. A writ petition filled by Shri Bijan Ghosh against the Union of India regarding withdrawal of the Bharst Ratna Award posthumously to Subhas Chandra Bose is also enclosed with the letter. Shri Datta has stated that the High Court has heart the matter twice on 21st January and 4th February, 1993 and on hearing the parties Justice Shri Umesh Chandra Banerjee has been pleased to pass orders as follows:

- pass an order adding Dr. Sushant Lumar Mitra as one of the parties and further pleased to pass an order;
- directing affi avit in opposition to be filed by four weeks, reply thereto within two weeks thereafter and the matter to come up for hearing six weeks hereafter; and
- an order directing the Central Government to produce all the records pertaining to the declaration of the Award Bharat Ratna posthumously to Retaji Subhas Chandra Bose at the next date of hearing.
- by Justice Shri Umesh Chandra Banerjee of Calcutta High Court concerns this Himistry. The main thrust of the petition is about the conferming of Bharat Ratna Award on Shri Subhas Chandra Bose posthumously and its withdrawal. The issue regarding the mistery of death of Netaji is co-related with the conferment of the Bharat Ratna Award. The petitioner intends to say that when the mistery of Netaji Subhas Chandra Bose death has not been solved the question of conferning of Bharat Ratna Award on him posthumously does not arise. In the circumstances he has sought reliefs that the Bharat Ratna Award which has been conferred on Shri Subhas handra Bose on 26th January, 1992 which has not yet been handed over to anybody on behalf of him as a mark of true and fair respect and honour to a man may be cancelled. Further he has sought reliefs that the respondent authorities may be directed to declare officially that Subhas Chandra Bose is dead since the Government has awarded him the award posthumously.
  - 3. Hence it may be seen that the main issue of the petition is the withdrawal of Bharat Ratna Award conferred on Shri Subhas Chandra Bose posthumously and the secondary issue is about the declaration by the Government officially about the death of Subhas Chandra lose if the award has been awarded to him posthumously. The subject matter is, therefore, the concern of Public Section and not of Is Division. At the time of an earlier controversy about the conferment of this award on Netaji this Desk has made available relevant papers about the death of Netaji

Subhas Chandra Bose to the Administration Division. any files regarding the death of Letaji are required the same can be given to the Admi istration Division. for f lling a counter affidavit . We may if approved, return the papers to Administration Division for taking necessary action at their end. 2711/25/25/2/93 (R.C. HADA) DESA OFFICER 1.3.1993 DS(IS/I) Since the matter concerns Conferment of Bharat Ratna Awardsto Netaji and production of records concerning this, we may request administrator Public Section of Administration Division to powers the case. Records available with 15-1 Division only concern Enquiry commissions and the conclusion of these that Netaji died in the Air crash where accepted by the gort.

Reference notes on pages 1-2/ante.

- 2. No doubt the provocation for this petition is conferment of Bharat Ratna award (posthumously) on Netaji Subhash Chandra Bose, as already indicated the thrust of the reliefs sought by the petitioner particularly the appointment of a high level Committee to enquire into the truth about Netaji's alleged death is more appropriately for Is Division to handle. However, since the Hon'ble Court has directed filing of an affidavit-in-opposition by 4 weeks i.e. upto 3rd March, 1993, we are requesting the Branch Secretariat of the Ministry of Law at Calcutta to seek extension of time to enable this Ministry to file the required affidavit-in-opposition
- 3. In case Administration Division (Public Section) is to deal and handle this case, we may request IS Division to let us have para-wise comments in respect of the portion asking for information about the death of Netaji and announcement thereof by the Government of India. Such para-wise comments may be made available to us at their earliest and latest by 10th of March, 1993 so that necessary affidavit\_in-opposition is filed at the earliest.
- JS(A) may kindly see before these papers are returned to IS Division.

(V.P. Bhatia) Under Secretary (Pub. & Vig.)

Director (O&M & Vig.)

MOST IMMEDIATE

# PRESIDENT'S SECRETARIAT (CA-II Section)

The attached letter No.15/B/Home/93/178/904 dated 4-2-93 alongwith its enclosures regarding writ petition filed on behalf of Shri Bijan Ghosh, Advocate, High Court, Calcutta, Bar Association, Room. No.11, challenging the conferment of Award of "BHARAT RATNA" on Netaji Subhas Chand Bose, is forwarded to the Ministry of Home Affairs, New Delhi, for appropriate action.

(G.B. Pradhan)

DIRECTOR

Ministry of Home Affairs (Shri M. Venkateswara Iyer, Joint Secretary President's Sectt. u.o.No.F.II-3.2(1)/93-CA.II dated 9-2-93.

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543-Seey 193 DY. No. PC 293 PRIORIT Government of India
Ministry of Law & Justice
Department of Legal Affairs S. K. KUNDU CENTRAL GOVT. ADVOCATE SPEED POST CAN Branch Secretariat, Calcutta. 4, K.S. Roy Road, Calcutta - 1 15/B/Home/93 Dated The Chief Secretary, to the President of India, Rastrapati Bhawan, New Delhi 110001 Sir, (w)/92Sub: CO No. Bijan Ghosh -VS-Union of India Kindly find enclosed herewith a copy of the writ petition filed on behalf of the petitioner abovenamed challenging the conferment of Award 'Bharat Ratna' on Netaji Subhas Chandra Bose. This matter was heard on 21st January, 1993 and the Hon'ble Justice U.C.Banerjee was pleased to direct service of a copy of the writ petition after amendment on the Learned Attorney General of India by 25th January, 1993. We have no information otherwise from the office of the learned Attorney General of India about the receipt or otherwise. I am forwarding a copy of the writ petition along with a copy of the learned Advocate's letter dt.21.1.93, who is appearing on behalf of the Union of India. Awaiting an early reply. The matter is appearing in today's list. Further development will follow but in the meantime, necessary instructions should be despatched immediately. Yours faithfully, Encl: Copy of the writ petition and copy of letter. N.B. The copy of the Advocate's letter all 4th Feb. 1993 of the Ld. Commisel is also confo food enclosed herewith. PODde

PHONE : Res. 75-2681 48

Residence: 18B, Annada Banerjee Lane, Calcutta-20 Chamber: 7, Old Post Office Street, Calcutta-1

Ton Sn S. K. Kunder, Central Cur Advocate Mirity of how and Justice 4. K.S. Ney Hond, Celette -1

21 Jany, 1993

-Donsir,

Ra : 0.0. No (W) of 1993 Bijon aher Unia of India and Dis ( your fit No . 15/B/ Home 193)

This is to inform you live les above motion was moved before this hurdship to How'be Mr. Justice Umash chandre Baurgin on 20 Jany, 1993 as an unlisted motion while in opposed by me on belief of the lucia of Indi.

On hearing the parties, His hurdship has on 21,1,93 been pleased to direct the unit petitione to serve copy your wit petition on the ld. Attorney Coment of Indi by Monday 25 Jamy, 1993. and grant leave to the petition to consect the cause title in course of the day, on the oral frant of Mr. Amings Nets Boss, Barrists, His hudding his been placed to add him as one of an Reymouth is the meter. The atmostid application his been adjourned by bornight and it will appear unexper at the typ que lin.

this is on of hearing you, hearing action . Thereing action . Thereing you , Amilan Dite Advector

Mos Türghit

PHONE: Res. 75-2681

Residence: 18B, Annada Banerjee Lane, Calcutta-20 Chamber: 7, Old Post Office Street, Calcutta-1

Mirish of haw and Justice.

4. K. S. Roy Board, Celuthe-1.

Dear Sir

47dm 11993

Rej C. O. No (W) of 1973 Bijan Churk,

(F.No. 15/B/Hone 193)

mentionetien your lette deted 21.1.93 in his above mette, I would like to inform you have their mall come. Up for firste heavy before the Howbit Magazine unch character Baccaja http: org. when I expressed for the heavy have. I can bear placed for the heavy the possilies, this hoodships has been placed

(1) to pars on order adding Dr. Susoil, kumar Mith as one of the parties, and fully please to pars an order

(2) described of the the opposition to be filed by 4 weeks reply thirds with a weeks thurst and the mite to combe up for heavy 6 works hereafter, and

(3) an order directing ten Central lient to produce all the records partaching with electronition of the Award Bharret Rather postermont, to Netry Subh, com Beautiful work forthe of hooing.

4. Place treat this as most ingent and impolant. Killy engeled that porope instructions room me and a temperated offices for the Mintelly of Home and the Mining of themen Pleserness Dendejound give me been for protometicus and make available all the records for fruit action with a telly. Thereby your fant ply the form ball

1. 6. 57 PNO 15/68/Home/93

## District : Calcutta.

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

( Appellate Side )

C. O. /C.R. No.

(W) of 1992 ;

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Subject matter relating to :

Under Group - K Head - Classification List.

In the matter of : Bijan Ghosh

... Petitioner

-Vs-

The Union of India

... Respondent

Advocate-on-Record :

Mr. Bijan Ghosh High Court, Calcutta Bar Association, Room No. 11. 58 12 140/5/68/Home/93

# District : Calcutta.

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

( Appellate Side )

C. O. /C.R. No.

(W) of 1992;

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## District : Calcutta

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

( Appellate Side )

The state of the state of

In the matter of :

An application under Article 226
of the Constitution of India;

And

In the matter of :

A Writ in the nature of Mandamous ;

In the matter of :

A Writ in the nature of Certiorary;

And

In the matter of

and/or orders, direction and/or directions;

And

In the matter of :

The highest Civilian Award

'Bharat Ratna' conferred upon

Subhas Chandra Bose posthumously

without having official declaration

by Government of India, and/or

admission of His death;

And

of the connector liver

In the matter of :

to declare post-facto the death of
Subhas Chandra Bose;

partmently in the answer of cand

to an an mate, dense In the matter of :

'Right to Know' is an extention of Fundamental Rights;

And

Mes attauntly reports En the matter of :

practising at High Court at Calcutta

Son of Sri Benoy Krishna Ghosh

B-172, B.E.College, Howrah-3.

... Petitioner

-Versus -

The Union of India

represented through the Chief Secretary

President of India,

Rastrapati Bhavan,

New Deihi-l.

... Respondent

To

The Hon'ble A.M. Bhattacharjee, Acting Chief Justice And His Companion Justices of the said Hon'ble Court.

The humble petition of the petitioner abovenamed;

Most Respectfully Sheweth : -

the Constraint of the water hand

- l. Your petitioner is Citizen of India and resides permanently in the address given in the cause title. He is an Advocate, practising at High Court at Calcutta.
- 2. The death of Subhas Chamira Bose, the main architect of the Freedom of India, is still a 'unsolved mistry'. It was allegedly reported that Subhas Chandra Bose died at a plane crash on 18th August, 1945 at Taihaku, now called Taipei in Taiwan but the Nation reasonably believes that the actual death of Subhas Chandra Bose was not caused in the reported plane crash. As a result of that different enquiry commissions were held to prove the Death but Findings/ conclusions of them had not been at all accepted by the Government of India as well as the Citizens of India. Awarding a person 'Posthumously' concludes that the person is dead. The Nation have every right to know about the actual Death of the National Hero, the cause(s) of the death, if He is really dead by now. As such this application is made in the National Interest and this application be treated as a Public Interest Litigation.
- 3. His Excelency, the President of India, had the pleasure to award 'Bharat Ratna' to Subhas Chandra Bose

they downed the S

on 26th January 1992 posthumously, which concludes that the Government of India is hereby officially submitting that Subhas Chandra Bose is dead. At the same time by awarding him Bharat Ratna, the Highest Civilian honour posthumously, the President of India has declared the other way round, that he is dead. The Government of India before that had not declared any where that Subhas Chandra Bose is dead and had not officially accepted the alleged report of Subhas Chandra Bose's death on air crash on .18th August, 1945, in Taiwan or findings of any commission . There is neither any declaration from any International Government or Authority either that Subhas Chandra Bose died on that air crash nor in any other specific event. Without the specific report of death of Subhas Chandra Bose, the Government of India cannot and should not award him the ・カラビミ オバッ 私の芸術的 連携施 highest civilian honour posthumously.

Hose, Shah Nawaz Committee was appointed by the Government of India to assert the facts related to the plane crash and/or death of Subhas Chandra Bose in the year 1956 i.e. after a period of eleven years from the alleged air crash followed by the announcement by Tokyo Radio. The Government of India, headed by Indira Gandhi had not accepted the x report of the Shah Nawaz Committee while setting up the 2nd equiry commission, a one-man Austinexkhasia Judicial Commission consisting of Mr. Justice Khosla, a retired

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Chief Justice of Panjab High Court called as Khosla Commission. The Khosia Commission's report which was submitted in June, 1974 with the findings in favour of alleged air Crash, had also been rejected by the Government of India headed by Morerji Desai. The then Prime Minister. Morarji Desai, in the Loksobha on September 3, 1978 declared that with some contemporary records which had been available, in the light of doubts and contradiction and with those records the Government find it difficult to accept the earlier findings and conclusions of the Shah Nawaz Committee and that of the Khosla Commission and this declaration of Morarji Desai decisively proves beyond all doubts that the death of Subhas Chandra Bose was not officially accepted and recorded by the Government of India and perhaps for that reasons, the Bharat Ratna could not be awarded posthumously to him before. Hence the question of declaring and/or considering a person dead, if he/she is unheard of 7 years, cannot be arised here. Further to that the Government of India, headed by then Prime Minister, Mr. Chandra Shakher, ordered for a 3rd Enquiry Commission to unearth the 'unsolved mistry' of Subhas Chandra Bose's death, but the official order has not yet been carried out for some administrative reasons.

5. Subhas Chandra Bose was conferred the title 'Netaji'. Ghandhiji said about him "Subhas is the

patriot of Patriote, the prince of Patriots". The people of India have profound regard in Him. He all along had been admitted as a National Hero. He was the main architect of the freedom of India. The Countrymen have become stupied as to what propelled the Government of India to confer the award to him. Award is a recognition conferred to a person for his achievement, contribution and success in any field. An award makes a man glorified, levels a mark of recognition on him and as such every award has it's congenital limitation. But when a personality is higher and greater than any award, conferring the award to that person becomes ridiculous. It becomes an act of carelessness to limit that person ranking with others who had already been awarded and who would be awarded in future. Sometimes conferring award to ag person becomes an insult to him, instead of an honour to him. That is why we also find that some persons under some unwanted w situation or in some derogatory circumstances reject such honour or do not receive such award. Award is made to account and recognise the success/contribution/ achievem ent of a man. Has the Covernment of India now able to measure and success the His contributions to the freedom struggle of India and was his success subject to recognition by the Government of India, Conferring the award Bharat Ratna cannot be a 'prize-giving ceremoney'. Reward of the patriot was the freedom of His mother land, it cannot be a functional honour.

6. An Award, whatever may the honour status of that, may not always be a reward to a personality.

It could ridicule and rebuke him, it may degenarate, debase and defame him.

It may be derogatory to the person who is awarded
if he is much more greater than the award itself. A

personality like him should not be ranked with other
receipients of Bharat Ratna by confering the award, may
it be the highest civilian award, Not necessarily an
award would always make the receipient glorified,
sometimes it just damage the purpose itself when it
turns to a humilifation on the part of the receipient.

After a span of about 45 years what promoted the Government of India to recognise His success, to fathom his achievements, to reward His contribution to admire His sacrifice. The decision and act of Government of India are really ridiculous and have got no rational basis. Virtually he has been punished by this award. It is not a regard but a sheer disregard to him. The persons, who had been conferred with Bharat Ratna before Him are Enganglia chromologically Radha Krishnan, C. Rajagopalachary, Dr. C.V. Raman, Dr. Bhagaban Das, M. Bisheshwarayya, Jaharial Nehra, Gobindallay Panth, D.K.Karve, Bidhan Chandra Roy, Purushottam

Das Tandon, Dr. Rajendra Prashad, Dr. Rajendra Proshad. Dr. Jakir Hushen, P. V. Kane, Laibahadur Shastri, Indira Candhi, V. V. Giri, Kx/Kx Mother Terisa, Binoba Bhave, Khan Abdul Gaffor Khan, M.G. Ramchandran, B.R. Ambedkar. Nelson Mandela, Morarji Desai, Rajiv Gandhi, Ballav Bhai Patel respectively. It cannot be said that all of them were superior to Him or His contributions were less worthy than anybody's amongst the foregoing names. It is also a question to the people that what makes awarding Him Bharat Ratna along with M.A.K. Azad on the same day. They were not at all equal in rank as far the freedom movement of India was concerned. After Him, till date, J.R.D. Tata and Satyajit Ray have been conferred Bharat Ratna. Should the Government of India rank Subhas Chandra Bose with all these persons or with all such persons who would be awarded Bharat Remain Ratna in future.

part of the Government of India in conferring Him Bharat
Ratna. It was totally an mechanical approach in awarding
Him. The Government of India should have meticulously
considered whether it would be a regard or disregard in
awarding Him Bharat Ratna after 45 years of Independence
and that too after awarding the same to a lot of parsons.
Had he been the first receipient of this award, still it

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would be the public reaction that awarding Him is an attempt to limit Him, His success, contribution and in attainments. The Covernment of India should have judge the matter carefully, not mechanically and superficially; the public sentiments, emptions and feelings should have been taken into account before conferring Him any award. Without having any attempt afresh to know about the mistry of His Death, without having any regard to the honour the people have for Subhas Chandra Bose, the Government of India awarded Him and that too posthumously and the gward which had been conferred by this time to a number of persons, who cannot be ranked with him by any way. The Government of India has no right and authority to insult a National Hero; to defame and disregard a man who was the main architect of the freedom of India, to hurt the feelings, sentiments and making admiration of the people of India, to dishonour and humiliate a personality by just attaching a mark of award whereas the award is meant for other persons who needs statutory recognition and honour. The Government of India should reconsider the decision of conferring Him Bharat Ratna and there is no lots of doubt about it that it would be a mark of true respect and honour to Him if He is not leveled with any award. The declaration of conferring Bharat Ratna to Him should be withdrawai/recalled as a mark of true respect and honour to Him.

took the settle of the contraction

Your petitioner craves leave to submit the account of public sentiment and feelings as reported in press against Government's this decision of Government.

material facts on the basis whereof the Government of India has chosen to describe the award as posthumous. For some obvious reasons the reports and findings of Shah Nawaz Committee and Khosla Commission were declared not decisive. An importent dignitory in his speech on the occassion of installation of Subhas Chandra Bose's protrait in the Central hall of the parliament in sometime 1977 contained on indications about the uncertainty of his having died in the meantime, rather wishing his home-

9. Subhas Chandra Bose left his house at Calcutta on 17.1.1941, evading house arrest, reached Japan in May 1943, en-route Afganisthan, Soviet Rusria, Genmany, Madagascar and Sumatra.

After the fall of Japan in August, 1945, since it was not sake for highto stay in any part of East Asia, he left for an asylum, in all probability that was the then Soviet Russia,

but there are enough circumstantial evidence, documentary reports and other auxilliary testimonials to accept this conclusion. It is believed that Subhas Chandra Bose successfully managed to enter the then Soviet Russian territory via Manturia under the camouflage of the report of his air crash death on 18th August 1945.

It is reasonably believed that Subhas Chandra - 11. Bose went to the them Soviet Russia and wanted to come back to India sometime in 1945-46, but subsequently. somehow it was managed at any level and he was kept in the then Soviet Russia against his will and for some reasons or others, he was not allowed to come to India. Propelled by this strong impression all the persons who took the matter of Subhas Chandra Bose's death mistery in the National interest, all along wrote the authorities concerned of the then Soviet Russia even to the new born Russia to reveal all the facts and truths related to death mistry of Subhas Chandra Bose. But till date, no such information has been received by the people of India. It is needless to mention that Subhas Chandra Bose was never declared a War Criminal.

12. It was along doubted that the alleged plane crash was a camouflage of the report under which

Subhas Chandra Bose left East Asia and took shelter in any part of the world and the legical conclusion is the then Soviet Russia, which all along was very friendly to Subhas Chandra Bose and he had a profound faith in the Phylosophy of Socialism. All along, different Indians, in representative capacity as well as in individual capacity Wrote to the then Soviet Russian authorities that Subhas Chandra Bose was in the then Soviet Russia and should be handed over to the Indian Government. Mr. Samar Guha, an M.P., as a leader of the Socialist Party of the Lok Sabha met Breznav at Rastrapati Bhavan When the later visited India and presented a three-page memorandum on 23.11.1973 with a request that Moscow should reveal all the facts about Him. In which it was outlined the reasons categorically why Indian believe that Subhas Chandra Bose was given shelter by Stalin after escaped from Saibheria on 23.8.45. But no reply was received either from Delhi or from Moscow, neither the request was turned down in writing. The same request was made to Mr. Gorbachev after he came to power which too went un-answered.

13. Freedom and M Democracy are the two things which are complimentary to each other and one can not exist without the other. Freedom is all pervading. It includes the freedom of information. In a Democratic country like

India, where freedom of throught and expression are guaranteed as fundamental rights, which concludes well that freedom of information is also within the meaning of fundamental rights because the resource of thinking thought and expression are information and knowledge. A free and democratic State cannot afford to ignore the freedom of information to Her citizens, specially which is a question of National Interest, more preciously relating to the death of a National Hero, the main architect of the freedom of India. Freedom, in its true spirit is guaranted in the Constitution as Fundamental Right and as such freedom of Information should also be honoured as fundamental Right. The promises of unconditional Freedom in true sense are piling up but the day of fulfilment is no where in sight.

deprived of 'Right to know'. It cannot be said that social justice has been done if there is no right to know, no freedom of information, especially which is a province of National Importance and in no way frelate than the sylence of Security affects of the Said than

15. The right to know should be treated with paramount importance and of fundamental hearing in a Democratic Republic. Right to know is as fundamental as Right to life.

manual transference

The constitution of India had been contemplated in it's preamble;

Justice-social, economical and political. The Justice cannot be ensured without proper freedom of information and right to know. Every citizen has every right to know everything save and except the exclusive defende matters which is the wasket province of security of State. Furnishing information with regard to 'right to know is required for the due discharge of the duties on the part of the Government even if I it is required to obtain from any part of the world. A democratic Republic State cannot promote a tipical kind of 'mental-slevery' to her people by adopting the practice of furnishing edited information. If there is no subjection in free India, if there is no master alave relation between the Government and people in a Republic State, then the people have every right to know. In a Republic, by definition a Government is made by the people, of the people, for the people and as such if the people are not guaranteed of their right to know then by the definition itself the Government does not remain Democratic Republic.

admitted that right to know the truth is with the perview of fundamental right but that remains more a theoritical declaration.

importance, glamour and glory, struggle and success should not be declared dead in the camouflage of awarding posthumously. Vertually Government is thus striving to conclude all further enquiry commission(s) which could unearth the truth related to his death or his unwilling detention in any countery where he took political daylam.

the freedom of information to her citizens. British

Government published the documents related to 'Transferof-power 1942-47' in 1975 revealing many a documents
relating to freedom struggle of India but the Government
of India remained idle and indifferent about the documents,
deeds published in the said 'Transfer-of-power'. India
should have asked British Government about clarification
and relation of some documents, records and remarks and
for unearthing more facts and the truths related to the
freedom struggle of India and her political personalities
for a review afresh.

India attained 'freedom' by way of Transfer-ofPower. The Government of Britain Transferred the Power to
Government of India, conditionally, interalia, that the
all Documents of 'Transfer-of-Power' would the released
not before 1999, i.e. after 50 years from the enactment of

the Constitutional Law of India. In a civilised world, for an independent contry this is unthinkable and unheard of.

Government of India did not take any attempt to know about the 'unsolved mistry' which is haunting the country for about haif a century, whereas all the time all the doubts were hurbered about Subhas Chandra Bose's stay at the then Soviet Russia. The State archieves of the then Soviet Russia's inteligence service, commonly known as K.G.B., which was also very much right and resourceful on international International secrete information, is now accessible to all but the Government of India did take any attempt to investigate search out information over where about India's freedom strugged or her men, specially of Subhas Chandra Bose.

In a question of National Importance, the State can not ignore her responsibility by deliberately terning her fact back to the mines of information.

19. That no application is pending before this Hon'ble Court or any other Court for the same self cause of action.

mechanical decision and total non-application of mind on the part of Government of India with regard to conferring Bharat Ratna to Subhas Chandra Bose and that too posthumously without having any official deciaration of the death of Subhas Chandra Bose, your petitioner begs to move this application under the Constitutional writ Jurisdiction amongst the other followings:

#### GROUNDS

- I. For that the Government of India has never admitted and declared that Subhas Chandra Bose is dead and without having such official declaration and/or admission, the Government of India can not award him posthumously.
- of mind on the part of Government of India, have prejudiced the profound feelings and admiration of the people throughout the country for Subhas Chandra Bose and Government of India should withdraw/recall the award conferred to them as a mark of true-honour to Him.

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- III. For that the Government of India should not have rank Him with others receipients of Bharat Ratna, should not have limit Him by awarding Him Bharat Ratna, may it be the highest civilian award.
- IV. For that the Government of India should not have awarded Him Bharat Ratna, as His achievements were much more glorious and magnificient than any awarde
- V. For that a statutory and functional recognition by way of conferring Him an award has vertually dishonoured Him and as such the Government of India should re-consider the matter de-novo and till such afresh decision the award should not be handed over to anybody on His hehalf.
- VI. For that His contribution and secrifice, success and achievements, struggle and petriotism could not be matched with or ranked by any award, may it be the highest civilion honour, Bharat Ratna.
- VII. For that before conferring Him the award the Government of India ought to have consider these aspects whether the award itself would reward or ridicule Him, would honour or dishonour and defame Him, would apristate or depristate Him since every award has it's congenial limitations and as such award is not meant for every body.

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- VIII. For that Bhargt Ratna is the highest civilian award given from the office of President and Subhas Chandra Bose was the main architect of the Freedom of India and as such, such an erroneous and unconstitutional functioning on the part of the Government of India cannot be appreciated.
- IX. For that the Government of India should have declared first that Subhas Chandra Bose is dead, the declaration being substantiated by documents and evidences beyond doubts, before awarding him posthumously.
  - For that the Government cannot take the plea that
    he is dead in the eye of law as he is unheard of
    more than 7 years from the date of his alleged
    report of death, i.e. from 18th August, 1945,
    since the Government of India did not admit even
    in 1978 that Subhas Chandra Bose is dead and
    subsequently ordered for another enquiry commission.
- XI. For that without having any endeavour to get the true and real facts about the death of Subhas

  Chandra Bose after the changed International political circumstances which has become conducive

to reveal the facts, the Government of India should not declare him dead by awarding him just posthumously.

- XII. For that by conferring the award, Bharat Ratna, posthumously to Subhas Chandra Bose is otherwise illegal official declaration of death of Subhas Chandra Bose, which is not at all permissible under the law.
- XIII. For that the Government of India took the camouflage of awarding Subhas Chandra Bose posthumously to put an end to the Enquiry(s) which is yet to be concluded satisfactorily to unvail the truth relating to the alleged report of death of Subhas Chandra Bose.
- XIV. For that conferring the award, Bharat Ratna, posthumously to Subhas Chandra Bose is an unprecedented case of conviction without trial and as such the said award should be withheld unless and untill His death is conclusively proved and officially declared.
- XV. For that the Government of India has never admitted the death of Subhas Chandra Bose after the reports

of Shah Nawaz Committee and Khosia Commission and the Government of India headed by Chandrasekhar ordered for another enquiry commission to be concluded on the unsolved mistry of death of Subhas Chandra Bose and without having the conclusive report of the said 3rd commission, thus ordered, the Government of India cannot declare a person 'dead' by awarding him posthamously.

- AVI. For that citizen of India had the freedom of information and the Government of India cannot afford to neglect the responsibilities and liabilities of furnishing the information, specially which is involved in the National Importance.
- AVII. For that the Government of India cannot sit idle
  in not investigating the 'unsolved mistry' relating
  to the death of Subhas Chandra Bose whereas he was
  the main architect of the Freedom of India.
- XVIII. For that this application is made in the National
  Interest and keeping pace with the National feelings
  and sentiments which all Indians still retain about
  Subhas Chandra Bose.

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XIX. For that before declaring him officially dead in the camouflage of awarding him posthumously, the Government of India should strive to find out in every quarter of the World whether Subhas Chandra Bose is dead or not if dead, when he died, how he died, where he died and what a happened to the dead body.

person dead without being satisfied substantially,
evidentially and documentarily about the death
and cannot declare a person dead by way of awarding
him posthumously and as such, the award should be
withhold until and unless the death is officialy
declared by the Government of India.

XXI. For that the Government of India our an explanation and obligation to Her people, being a Republic Country, to speak out the truth on the basis of record and evidence and the same can not be circumvented by making a posthumous award.

XXII. For that it is reasonably believed that Subhas
Chandra Bose left for the then Soviet Union under
the camuoflage of the report of the plane crash and

spent the rest of his life over there, may be against his pleasure and the Government of India awarded him posthumously on January 26, 1992 without having any enquiry officially in the political State Inteligence Archives of the then Soviet Union which is now easy accessible to all after the breaking of Soviet Union in December 25, 1991.

of India should order for a commission to be constituted by a g highly technically efficient men for fishing out with all sincerity the information from all possible corners on the Globe which is also very easy available now in the charged International Political situation.

XXIV. For that since the award has been once conferred to Him posthumously, the Government of India can not afford to shrink in discharging it's responsibilities and can not evade it's obligations to find out and establish the truth beyond all doubts about the said 'mistry' even if, the award Bharat Ratna is subsequently withdrawn as a mark of true respect to Subhas Chandra Bose.

Your petitioner submits that since the people of 21. India have not admitted and accepted the conferring of Bharat Ratna to Subhas Chandra Bose as a mark of Honour and Recognition to Him, and as such through out the country, irrespective of political faith and belief, the people have critisied this decision and declaration of Government of India and demanded withdrawal and/or cancellation of this award conferred the Him. The question of conferring Bharat Ratna to Subhas Chandra Bose was raised in the floor of W.B. Legislative Assembly and the entire Assembly, without any reservation, conveyed the xmg request to the President of India, who was then in Calcutta, to cancel the Award. A citizen's convention was held on 22nd February, 1992, at Calcutta University contenary Hall to demand immediate withdrawl of the said posthumous award. Neither from His family nor anybody from Government of West Bengal went to receive the award on His behalf on 28th March, 1992 at Rastrapati Bhavan, on the occassion of Bharat Ratna award giving carimony or thereafter. The Authority has decided to handover the award to His family on his behalf on the second occassion, held on 6th April, 1992, at Rastrapati Bhavan finding no other alternative to such situation. But none accepted the award on His behalf. The authority concerned must re-consider the decision of conferring Him Bharat Ratna and to withdraw the same as a special case.

Your petitioner further submits that the fundamental responsibility of Government of India to make a full and faithfull disclosure of all the facts and records. The Word secret, specially in political arine, is a relative factor. Nothing could be secret for infinite time span. The Secret Files/Documents of Government of India of 1950 is no more of that wer secrecy as on today. With the passing of time the necessity of secrety is forfited in itself. If any thing is kept secret perpitually, then it becomes conclusive that the matter is made secret purposively. Award or no award, even the search of a missing citizen must come to an end at some state of conclusiveness. There is no doubt that it would be much honour if His countrymen could know the truth end fact about His misterious disappearance and suspected detention in some foreign country against His will, than to treat the award as posthumous either by presumption or by suppression of facts. It is not known whether there exists an actual mystary or a mystory has been created to hold back the truth from the Indian people. The openion sustains in public a mind in this respect that the most evasive and mysterious stands had been resorted by the Government of India, at least till 1991. It is of no use making any enquiry in a mysterious way to solve a mystry. This not an inexplicable mystry, the Government of India alone had been striving to

Although quite in the day the quest for the truth has arisen once again in the context of the announcement about the posthumous award and let us only hope that the quest itself does not turn out to be posthumous or abortive. People have to be told in precise terms and with fullest details if the expression "posthumously" has any legitimate foundation.

24. No demand of justice has been served upon the respondent, since that would be mere ornamental in maintaining the procedure.

25. Your petitioner submits that no other speedy and effective forum is available to him and there will be a total redressal of the Nation wide public grivances and complete justice to a National suestion.

26. This petition is made bonsfide and for the ends of Justice.

Under the aforesaid facts and circumstances, Your petitioner most respectfully prays that Your Lordships may graciously be please to issue;

calling upon the respondent authorities
to cancel and/or withdraw and/or
recall the award, viz. Bharat Ratna which has been conferred on Subhas which has been conferred on Subhas which has not yet been handedover
to anybody on behalf of him as a mark
of true and fair respect and honour at
to a man who is beyond any functional award.

calling upon the respondent authorities to declare officially that Subhas Chandra Bose is dead, since the Government has awarded him posthumously.

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calling upon the respondent authorities
to declare the details of Death of
Subhas Chandra Bose i.e. when the
death occured, how the death occured,
where the death occured and what the
happened to the dead body.

- d) A writ in the nature of Mandamous calling upon the respondent authorities to form and constitute a 'High-level Enquiry Committee' to unearth the truth and facts beyond all doubts related with the unsolved mistry of the death of Subhas Chandra Bose.
- e) A writ in the nature of Certiorari calling upon the respondent authorities to produce all the records available to them related to the death of Subhas. Chandra Bose, in original, so that consignable justice may be administered.
- f) Rule NISI in terms of prayers (a) to (e);
- g) Any other appropriate writ and/or writs as Your Lordships may deem fit and proper.
- h) An adinterim order of injunction restraining the respondent authority from handing over the award to anybody

I, Sri Biler on His behalf and/or placing the most, against his feet a sward in National Museum or in liverence prestitaing at High Comme other place.

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i) Any other appropriate order

In the facts and of directions as Your Lordships may

deem fit and proper.

And your petitioner, as in duty bound, shall ever prayand in parameters to the Soft Bijan Grhosh.

Advocate
in person.

18/1/93

Proported to my office.

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Committed oner

# AFFIDAVIT

I, Sri Bijan Chosh, son of Sri Benoy Krishna Chosh, aged about 37 years, by Caste Hindu, by occupation Advocate, practising at High Court, Calcutta, residing at B-172, B.E. Eollege, Howrah-3, do hereby solemnly say as follows:

- 1. That I am the writ petitioner and I am well acquinted with the facts and circumstances of the case.
- 2. That the statements made in paragraph Nos. 1 to 6, 8, 13, 14, 15, 17, 24, 26 are true to my knowledge and those made in paragraphs No.7, 9, 10, 11, 12, 16, 18 excepting last paragraph are derived from records and newspapers and rest are my humble submission before this Hon'ble Court.

Edt Bijan Choch in person
Deponent (Advocate)

Prepared in my office.

Sof Bijan Cahoch in person.

(Advocate)

Solemnly affirmed before me this the 18 thday of January, 1993.

Commissioner.

### District : Calcutts

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

( Appellate Side )

In the matter of :

An application under Article 226 of the Constitution of India;

And

In the matter of :

Bijan Ghosh

... Petitioner

-Vs-

The Union of India

... Respondent

# PETITION

Mr. Bijan Ghosh
Advocate
High Court, Calcutta
Bar Association, Room No. 11.

5. No. 8 (R) 12/2 TO

P.C. Kannan. Additional Legal Adviser, Tele :- 38 70 90.

GOVERNMENT OF INDIA विधि, न्याय और कम्पनी कार्य मंत्रालय MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS विधि कार्य विभाग DEPARTMENT OF LEGAL AFFAIRS

DO .DY .NO . 916/93\_Judl

New Delhi, Dated 11.02.1993.

Dear Shri Iyer,

I am enclosing herewith a photocopy of letter No. 15/B/Home/92/77/903 dt. 4.2.93 alongwith enclosures written by Shri S.K. Kumdu, CGA, to Secretary, Ministry of Home Affairs, North Block, New Delhi regarding C.O.No(W)/92 Bijon Ghosh Vs. UOI. The matter relates to the "Bharat Ratna" Award conferred on Netaji Subhash Chandra Bose.

I shall be grateful, if you could depute a senier officer alengwith records to discuss the case with Shri Amitava Dutta, Advocate at the earliest.

With kind regards.

Encl. as above.

Yours sincerely,

( P.C. Kannan )

Shri M.V. Iyer, Joint Secretary, Ministry of Home Affairs, North Block,

New Delhi.

-S. K. KUNDU Government of Indi. Ministry of Law & Ustice CENTRAL GOVT. ADVOCATE Department of Lega Affairs Branch Secretariat Calcutta. SPEED POST 4, K.S. Roy Road, Cilcutta - 1 Dated- 4.2.93. 15/B/Hame/92 To The Secretary, Ministry of Home Affairs, North Block, New Delhi 110001 sir. (w)/92Sub: C.O.No. Bijan Ghosh -VS-101 916 Union of India & Ors. Raf: Telegram No. 1/27/92-public dt. 28.1.93 Kindly refer to the telegram issued from your office in connection with the above matter. Kindly find enclosed herewith a copy or the writ petition and also a xerox copy of the communication by Mr Amitava Dutta. learned Advocate dt. 21st January, 1993 intimating the order passed on 21.1.93. Kindly look into the matter and give us neg cessary instructions immediately. The matter is appearing today in the list. Further development will follow but in themeantime necessary instructions should be despatched immediately. Yours faithfully, Encl: Copy of the writ petition with a copy of the letter. (SK Kundu) Copy to: (not in original) SPEED POST Shri P.C. Kanan, Addl. Legal Adviser,

Ministry of Law Justice & CA, Deptt. of Legal Affairs,
Shastri Bhawan, New Delhi 110001. for necessary information.
Please note that this matter relates to the 'Bharat Ratna' Award conferred on Netaji Subhas Chandra Bose. By an order dt.21.1.93
Hon'ble Justice U.C. Banerjee has been pleased to direct service
of a copy on the learned Attorney General of India by 25th January
1993. The matter is appearing in today's list. Kindly give us
plate of necessary information and instructions in this matter immediately.

The letter is appearing in today's list.

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Residence: 18B, Annada Banarjee Lane, Calcutta-20
Chamber: 7, Old Post Office Street, Calcutta-1

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47-6mm, 1993

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(F. No. 15/B/Herre 193)

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" direction of the time opposition to be filed by 1 weeks rept, therein inter 2 weeks therefor and the mitter to combe up for for leaving 6 words how the first for and

(3) an order directing to Central Creat to produce all lies more of portraining to the distanction of the Award Blue and Robbs Central Beautiful to he tight which centre Beautiful to he tight which centre Beautiful to he tight which centre Beautiful to heart the continue of lowery.

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S. No.9(R) 561/93 Public No.15/B/Home/93 197 1062 17/2/93 Government of Their Ministry of Law, Justice & C.A. Deptt. of Legal Affairs, Branch Sectt., 4, K.S.Roy Road, Calcutta -1. Dated \_\_\_\_9.2.93. Secretary to the Govt. of India, Ministry of Home Affairs. North Block, New Delhi-1. 007714 407 Dear Sir, Ministry of Home Affairs Sub: C.O.No. /W/92 Bijan Ghosh of front New Delbi -Vs-Union of India & Ors. 6 FED 1993 Enclosed please find herewith a copy of the letter of our counsel dated 4th February, 1993 which will speak for itself. Thanking you, Yours faithfully, ( s.N.Roy )2 Jr.C.G.A. Encl: As above. Copy to: Sri Amitava Dutta, Advocate, 7, Old Post Office St., Calcutta-1 for information. marker from some strong from the strong stro Jr.C.G.A.

AMITAVA DATTA

MOST Wight

PHONE: Res. 75-2681

Residence : 18B, Annada Banerjee Lane, Calcutta-20

Chamber: 7, Old Post Office Street, Calcutta-1

Si S. K. Kundy, Central Cur Advocate Mirely of how and Justices 4, K. S. Roy Road, Celule-1.

Place in fle

47dmy, 1993

Dearbin

Re: C.O. No. (W) of 1993 Bijan Ghul

(F.No. 15/B/Hone 193)

In centimetian your letter deted 21.1.93 is his above metal, I would like to inform you that their meta Came up for from heavy before the Harble Mr Joshica lemosh current Bariejo this one. when I appeared for the blevier of his in On heavy the parties, this bridship has been plant

(1) to pass an order adding Dr. Susand Kumar Mets one of the parties, and fully pleas to pass an ard

(2) Mineting aftrocal-te-opposition to be filed by 4 week reply thurst inter 2 weres through and ten mate to be up for heavy 6 weeks hereefter, and

(3) an order directing to the Central how to produce of the records portaining to the declaration ofthe Awards Bhank Rather posteriments to Netagi Subha Coop at the next of heavy.

Place treet tues as most urgent and important kind of enque that pomper instructions read me and a competent offices for in Michly of Home and the Michly of Home and the Michly of Home me necessary of Human Resources Development give me necessary for this metians and meter available all the records for forther action with all delay. Thereing you yours tait the forther than the

Class. Ru

WIRELESS MESSAGE

CRASH

UNCLASSIFIED

FROM

HOME NEW DELHI

TO

SHRI S.K. KUNDU
CENTRAL GOVERNMENT ADVOCATE
BRANCH SECRETARIAT
MINISTRY OF LAW
4 K.S. ROY ROAD
CALCUTTA

NO. 1/27/91-PUBLIC

DATED: 6TH APRIL, 1993

REFERENCE: THIS MINISTRY'S WI RELESS MESSAGE OF EVEN NUMBER DATED

3RD MARCH, 1993 REQUESTING THEREIN FOR MOVING THE HON'BLE HIGH

COURT, CALCUTTA TO GRANT EXTENSION OF TIME FOR ONE MONTH TO ENABLE

THIS MINISTRY TO FINALISE AFFIDAVIT-IN-OPPOSITION IN THE MATTER

OF WRIT PETITION C.O. /CR NO. (W) OF 1992 FILED BY SHRI BIJAN

GHOSH IN THE HIGH COURT AT CALCUTTA CHALLENGING THE VALIDITY OF THE

UNION GOVERNMENT'S DECISION TO CONFER BHARAT RATNA POSTHUMOUSLY

ON NETAJI SUBHASH CHANDRA BOSE (.) AS THE AFFIDAVIT-IN-OPPOSITION

IS BEING FINALISED IN CONSULTATION WITH OTHER CONCERNED

AUTHORITIES AND WILL TAKE SOME MORE TIME IT IS REQUESTED THAT THE

HON'BLE HIGH COURT, CALCUTTA MAY BE MOVED TO GRANT EXTENSION OF

TIME BY ANOTHER MONTH (.) ACTION TAKEN IN THE MATTER MAY PLEASE

BE COMMUNICATED TO THIS MINISTRY AT YOUR EARLIEST (.)

(V.P. BHATIA)

UNDER SECRETARY TO THE GOVT. OF INDIA

MINISTRY OF HOME AFFAIRS

NEW DELHI

TEL. NO. 3012421

Under Secretary
Under Secretary
Under Secretary
Under Secretary
Under Secretary

V.P. Bhatia, Under Secretary(Pub. & Vig.), Tel.No.3012421.

D.O.No.1/23/91 -Public

Dated: 20-4-1993.

Dear Shri Kundu,

Kindly refer to your letter No.15/B/Home/92/176/902 dated 4th February, 1993, regarding writ petition C.O./C.R. No. (W) of 1992 filed in the High Court of Calcutta by Shri Bijan Ghosh challenging the validity of Union Government's decision to confer Bharat Ratna posthumously on Netaji Subhash Chander Bose and other related aspects and this Ministry's two Wireless Messages of even number dated 3rd March, 1993 and 6th April, 1993 (copy enclosed for ready reference) requesting therein to move the Hon'ble High Court to seek extension of time for filing the Affidavit-in-opposition upto 3rd May, 1993 as finalisation of the same was taking more time since it involved consultation with other concerned authorities.

- 2. The parawise comments in response to the said writ petition have now been finalised and the same are sent herewith for your immediate attention and preparation of the required Affidavit-in-opposition. As the time including the extended time at our disposal is very short, I shall be grateful if you will kindly have the Affidavit-in-opposition prepared expeditiously and the same returned to us for necessary execution and sending to you for formal filing in the Hon'ble High Court at Calcutta. The formalities required in execution of the Affidavit-in-opposition by the undersigned on behalf of the Union of India viz. attestation by an Oath Commissioner or a Notary Public etc. may also be clarified. It would be appreciated if the name of the Counsel-who would be attending to this case in the Hon'ble High Court at Calcutta and in whose favour Vakalatnama is to be sent is also indicated.
- 3. In view of the above position it is requested that the matter may kindly be attended to on a priority basis and necessary affidavit-in-opposition in the prescribed proforma returned to me by Speed Post.

With regards,

Yours sincerely,

(V.P. Bhatia)

Shri S.K. Kundu, Central Government Advocate, Branch Secretariat, Ministry of Law, Justice & Company affairs, 4, K.S. Roy Road, Calcutta-1.

Senal Bangles
2014/913

PARAWISE COMMENTS IN RESPECT OF WRIT PETITION C.O/C.R NO.
(W) OF 1992 FILED IN THE HIGH COURT OF CALCUTTA BY SHRI BIJAN GHOSH

Para 1:

No Comments.

Para 2, 3 & 4:

The contentions of the petitioner in paras 2,3 and 4 are not correct and are denied. The Government accepted the findings of both the Shah Nawaz Khan Committee and the Khosla Commission to the effect that Netaji died in an air-crash at Taihoku on 18th August, 1945. It was accordingly that the President's annoucement of the award of Bharat Ratna to Netaji Subhash Chandra Bose on 23rd January, 1992, was regarded as "posthumous".

The statement made by Shri Moraji Desai, in the Lok of Sabha on 28.8.1978 did not amount to outright rejection of the conclusions arrived at by the Shah Nawaz Committee and the Khosla Commission. Shri \*\*\*\*\*\*\* Desai only stated that reasonable doubts had been cast on the correctness of the conclusions reached earlier. Also, some contradictions in the testimony of witnesses had been noticed and some further contemporary official documentary records had also become available in the light of all of which it would be difficult to accept the earlier conclusions as decisive. However, Shri Morarji Desai also added that no useful purpose would be served by having any further inquiry.

As regards: the alleged toxhawaxbaean Third Enquiry Commission ordered by the then Prime Minister, Shri Chandrasekhar, no records are available in this Ministry.

Paras 5 to 8 :

The award of Bharat Ratna is conferred for exceptional service towards the advancement of Art, Literature and Science, and in recognition of Public Service of the highest order. The contention of the petitioner that awarding Bharat Ratna to Netaji Subhash Chandra Bose is a dishonour, rather than an honour, is his personal view which is incorrect. The decision to confer Bharat Ratna posthumously on Netaji Subhash Chandra Bose was taken keeping in view his relentless struggle and contribution for the cause of India's freedom. It is further denied that this decision was taken without any application of mind. However, keeping in view the widespread public reaction and critisism and to avoid any unnecessary controversy, the Government decided, notwithstanding the earlier announcement, not to take any further action in the matter and to treat the matter as closed.

...2/-

Para 9 :

The contents of para 9 require no comments.

Paras 10 to 12 :

As already stated in reply to paras 2,3 & 4, of the petition, Government have accepted the Report that Netaji Subhash Chandra Bose died in an aircrash on 18th August, 1945 at Taihoku. In view of this position, the contentions of the petitioner in paras 10 to 12 are not relevant and are denied.

Paras 13,14 15 & 16

The contention of the petitioner in paras 13,14,15 & 16 that freedom of information should be honoured as a fundamental right is his own view and calls for no comments. As regards information relating to the death of Netaji Subhash Chandra Bose, the stand of the Government has already been made clear in reply to paras 2,3 & 4 of the petition.

Para 17: The Government has accepted that Netaji Subhash Chandra Bose died on 18th August, 1945 in an air-crash at Taihoku. Accordingly, conferment of the award of Bharat Ratna on Netaji Subhash Chandra Bose was rightly regarded as a posthumous conferment.

Para 18

The contention of the petitioner in para 18 about right to information, as already stated, is his personal view. As regards some documents etc. published in the 'Transfer of Power 1942-47', these have no direct bearing on the aspect of death of Netaji Subhash Chandra Bose. As for the stay of Netaji Subhash Chandra Bose in the Soviet Russia, in view of the aceptance by the Government of his death on 18th August, 1945 in the aircrash, no comment is called for.

Para 19. No comments.

Para 20

With reference to the contention of the petitioner in para 20, it is denied that the decision to confer Bharat Ratna on Netaji Subhash Chandra Bose was taken without any application of mind.

#### GROUNDS

With reference to the various gounds under para 20, the comments are as under:-

- I. Government accepted the findings of the One Man Commission of Inquiry (consisting of Shri G.D.Khosla, retired Chief Justice of the Punjab High Court, as sole Member) which went into the question of disappearance of Netaji Subhash Chandra Bose. The Report of the Commission along with the Memorandum of Action Taken thereon was laid on the Table of both the Houses of Parliament on 3rd September, 1974. Accordingly, the President announced the award of Bharat Ratna posthumously to Netaji Subhash Chandra Bose on 23rd January, 1992.
- While it is denied that there was non-application of mind on the part of Government in conferring Bharat Ratna on Netaji Subhash Chandra Bose, as already stated, Government decided not to go ahead with the conferment of Bharat Ratna posthumously on Subhash Chandra Bose.

III to

- VIII The contentions of the petitioner under these grounds are emphatically denied as the decision of conferment of Bharat Ratna posthumously on Netaji Subhash Chandra Bose was taken keeping in view his outstanding contribution for the cause of India's independence. That by conferring the award of Bharat Ratna, Government has virtually dishonoured him is the petitioner's own view. Government's intention was to honour a great man who had fought for India's freedom.
- IX to
  XIII No comments are needed in view of what has already been stated above.
- XIV The contention in ground XIV is denied in view of what has already been stated above.

XV to

XVII In view of the foregoing, no further comments are needed.

XVIII No Comments.

XIX In view of the foregoing no further comments are needed.

XX No comments in view of the position stated above.

XXI

XXIV No comments in view of the position already stated.

Para 21

On 7th August, 1991, in connection with a Special Mention by Shri Pramod Mahajan, MP, Rajya Sabha, Members present had urged the Government to confer Bharat Ratna posthumously on Maulana Abul Kalam Azad and Shri Subhash Chandra Bose. Keeping in view the sentiments of the Hon'ble Members and in recognition of their public service of the highest order, the names of Maulana Azad and Netaji were approved by the President of India for the award of Bharat Ratna and the same were announced on 23rd January, 1992. Hence, it is wrong to say that the people of India did not accept the conferment of Bharat Ratna on Netaji.

Para 22

Needs no comments since the Report of the Khosla Commission and the Memorandum of Action Taken thereon has already been laid on the Table of both the Houses of Parliament on 3rd September, 1974.

Para 23,24 25

In view of the position already stated about the death of Netaji, the contentions of the petitioner are not relevant and are denied.

Para 26

In view of the position explained in the foregoing paragraphs, the reliefs sought under paragraph 26 merit outright rejection. It is accordingly prayed.

Government of India
Ministry of Law & Justice
Department of Legal Affairs
Branch Secretariat, Calcutta.
4, K.S.Roy Road, Calcutta - 1

Dated 23.4.93

& Vig.)
airs

To
Shri V.P.Bhatia,
Under Secretary (Pub.& Vig.)
Ministry of Home Affairs
Government of India,
North Block,
New Delhi 110001

Dear sir,

S. K. KUNDU

CENTRAL GOVT. ADVOCATE

No. 15/B/Home/92/479

Sub: C.O.No. (w)/92 Bijan Ghosh -vs-UOI & Ors.

Kindly note that the parawise comments sent along with your D.O. No.1/27/91-public dated 20.4.93 on the subjectmatter mentioned above are being forwarded to the learned Advocate-on-Record for drafting the Affidavit-in-opposition immediately.

Please also note that we are engaging Mr. Somendra Chandra Bose, a Special Panel counsel due to the important nature of the case. He will require a consultation with a competent person in this connection to be backed by the relevant files for the purpose of finalising the Affidavit-in-opposition and also for arguing the case.

This is for your information and necessary action.

Yours faithfully,

(sk Kundu) 23/4

Copy to:

1. Smt. R. Lakshmanan,
Special Secretary,
Ministry of Law Justice & C.A.
Deptt. of Legal Affairs
Shastri Bhavan, New Delhi 110001- for information. This case
involves the question of awarding posthumous Bharat Ratna Tools
on Netaji Subhas Chandra Bose.

2. Shri Amitava Dutta, Advocate
7. Old Post Office st. Calcutta 1 - for information. Please find enclosed herewith a copy of the parawise comments as also the backsheet in favour of the senior counsel Shri Somendra Chandra Bose and please take immediate action to draft the Affidavit-in\_Opposition.

Encl: copy of P/comments
and wakakakaaaa backsheet.

(SK Kundu)

Wireless Message

Crash ----

FROM : HOME NEW DELHI.

TO : SHRI S.K. KUNDU,
CENTRAL GOVERNMENT ADVOCATE,
BRANCH SECRETARIAT,
MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS,
4, K.S. ROY ROAD,
CALCUTTA.

F.No.1/27/91-Public

Dated: 30-4-1993

(W)/92-BIJAN GHOSH VS. UNION OF INDIA & OTHERS(.) WE HAVE NOTED THAT SHRI SOMENDRA CHANDRA BOSE, A PANEL COUNSEL IS BEING ENGAGED TO HANDLE THIS CASE AND DRAFT PARAWISE COMMENTS HAVE BEEN GIVEN TO SHRI AMITAVA DUTTA. ADVOCATE FOR DRAFTING THE AFFIDAVIT-IN-OPPOSITION(.) AS REGARDS PRESENCE OF A COMPETENT OFFICER BACKED BY THE RELEVANT FILES FOR FINALISATION OF THE AFFIDAVIT-IN-OPPOSITION/SHRI BOSE THE POSITION IS THAT THE PARAWISE COMMENTS ALREADY WITH YOU ARE SELF-CONTAINED AND AND EXPLAIN THE POSITION FULLY AND THERE IS NOTHING BY WAY OF ANY ADDITION WHICH REQUIRES AN EXPLANATION(.) AS SUCH WE WISH THAT THE AFFIDAVIT-IN-OPPOSITION BE FINALISED EARLY BASED ON THE PARAWISE COMMENTS AND THE SAME SENT TO US FOR DOING THE NEEDFUL BY THIS MINISTRY AND ITS EARLIEST RETURN TO YOU TO BE FORMALLY FILED IN THE HIGH COURT OF CALCUTTA(.) NECESSARY VAKALATNAMA IN FAVOUR OF SHRI SOMENDRA CHANDRA BOSE, SPECIAL PENAL COUNSEL AND SHRI AMITAVA DUTTA ADVOCATE WOULD BE SENT WITH THE COMPLETED AND DULY SWORN AFFIDAVIT-IN-OPPOSITION (.) SINCE THE EXTENDED TIME BY WHICH AFFIDAVIT-IN-OPPOSITION HAS TO BE FILED IS ONLY UPTO 3RD MAY, 1993. YOU ARE REQUESTED KINDLY TO MOVE THE HON'BLE COURT

REFER YOUR LETTER DATED 23RD APRIL 1993 REGARDING C.O. NO.

FOR SEEKING EXTENSION OF ANOTHER MONTH UPTO 3RD OF JUNE TO FILE THE AFFIDAVIT-IN-OPPOSITION(.) DETAILED LETTER HAS BEEN SENT SEPARATELY BY SPEED POST(.)

ABrau

(V.P. BHATIA)

श्री क पीक भारिका) (V. P. BHATIA) धावर सचिव Under Secretary गृह मन्त्रास्त्र Ministry of Home Affairs



S. No. 14

By Speed Post

V.P. Bhatia, Under Secretary(Pub. & Vig.), Tel.No.3012421.

D.O.No.1/27/91-Public

Dated: 30-4-1993.

Dear Shri Kundu,

Kindly refer to your letter No.15/B/Home/92/479/4425 dated 23.4.93 regarding C.O. No. (W)/92 - Bijan Ghosh vs. Union of India and others.

- 2. We have noted that keeping in view the important nature of the case, you are engaging Shri Somendra Chandra Bose, a Special Panel Counsel and that you have already handed over the parawise comments as also the backsheet in favour of the senior Counsel, Shri Somendra Chandra Bose to Shri Amitava Dutta, Advocate with direction to draft the Affidavit-in-Opposition. It has been indicated in your letter that the presence of a competent Officer backed by the relevant files is required for finalisation of the Affidavit-in-Opposition by the Senior Counsel. In this connection, the position is that the parawise comments are already self-contained and explain the position fully. As such, we wish that the Affidavit-in-Opposition is finalised early based on these parawise comments and the same returned to us for doing the needful here and its earliest return to you to be formally filed in the High Court of Calcatta.
- 3. In view of the above position, I would request that early action may kindly be taken to finalise the Affidavit-in-Opposition. Necessary Vakalatnama in favour of S/Shri Somendra Chandra Bose, Special Panel Counsel and Shri Amitava Dutta, Advocate would be sent with the completed and duly sworn Affidavit-in-Opposition.

With reports

Yours sincerely,

(V.P. Bhatia)

Shri S.K. Kundu,
Central Government Advocate,
Branch Secretariat,
Ministry of Law, Justice & Company Affairs,
4, K.S. Roy Road,
Calcutta.

PS: SINCE THE EXTENDED TIME BY WHICH AFFIDAVIT-IN-OPPODITION HAS TO BE FILED IS ONLY UPTO 3RD MAY, 1993, YOU ARE REQUESTED KINDLY TO MOVE THE HON'BLE HIGH COURT OF CALCUTTA FOR SEEKING EXTENSION OF ANOTHER MONTH UPTO 3RD OF JUNE 1993 TO FILE THE AFFIDAVIT-IN-OPPOSITION.

Sexal Pan. 18/93 30/4/93 S. No. 15 By Speed Post

V.P. Bhatia, Under Secretary(Pub. & Vig.), Tel.No.3012421.

D.O. No. 1/27/91-Public

Dated: 14-5-1993.

Dear Shri Datta,

As you may be aware Shri Bijan Ghosh has filed a petition C.O. No. (W)/92 against the Union of India and Others regarding conferment of the decoration of Bharat Ratna (posthumously) on Netaji Subhash Chandra Bose. In this connection your attention is also invited to your two letters dated 21st January, 1993 and 4th February, 1993, addressed to Shri S.K. Kundu, Central Government Advocate, Ministry of Law & Justice, Branch Secretariat, Calcutta.

- 2. I have been sending messages from time to time to Shri Kundu for seeking extension of time from the Hon'ble High Court of Calcutta on account of the fact that for preparation of counter-affidavit some consultations were to be done with other Divisions of this Ministry (Copies of the messages sent to Shri Kundu are enclosed for your ready reference).
- 3. Parawise comments after preparation in this Ministry were sent to Shri Kundu on 20th April, 1993, vide my d.o. letter of even number with the request that the Affidavit-in-Opposition be prepared expeditiously and the same returned to us for necessary execution and returning the same for formally filing in the Hon'ble High Court at Calcutta ( A copy of this letter is also enclosed for your reference. Vide his letter No. 15/B/Home/92/479/4425 dated 23rd April, 1993, Shri Kundu informed that the parawise comments as also the backsheet in favour of the Senior Counsel, Shri Somendra Chandra Bose who is a Special Panel Counsel has been sent to you for drafting the Affidavit-in-Opposition. In this letter he also communicated that Shri Somendra Chandra Bose will require consultation with a competent person in this connection to be backed by the relevant files for the purpose of finalising the Affidavit-in-Opposition and also for arguing the case. A reply to this letter has already been sent vide this Ministry's Wireless Message of even number dated 30th April, 1993 (Copy enclosed for ready reference).
- 4. As nothing has been heard either from Shri Kundu or from you I would be grateful if the Affidavit-in-Opposition duly finalised is sent to this Ministry at your earliest possible convenience with detailed instructions as to the manner in which this Affidavit-in-Opposition is to be sworn (whether by a Notary Public or Oath Commissioner and whether each page has to be signed by an Officer of this Ministry or only last page, a total number of copies to be sent to you and as requested by this Ministry, what is the date upto which the Hon'ble Court has granted extension for filing this Affidavit-in-Opposition. A reply by return message will be appreciated.

With regards,

Yours sincerely,

Shri Amitava Datta, Advocate, High Court, 18-B, Ananda Banerjee Lane, Calcutta-20. (V.P. Bhatia)

Copy for information and necessary action to shri S.K. Kundu, Central Government Advocate, Ministry of Law & Justice, Department of Legal Affairs, Branch Secretariat, 4-K.S. Roy Road, Calcutta-1 with the request that the latest position in the matter may kindly be communicated to this Ministry expeditiously.

TO THE WAR

Under Secretary to the Government of Indian (7.14)
(V. P. BHATIA)

(V. P. BHATIA) अवर मचिव Under Secretary गृह मन्त्रालय Ministry of Home Affairs STATE

#### **EXPRESS**

TELEGRAM

SHRI AMITAVA DATTA, ADVOCATE, HIGH COURT, 18-B, ANNADA BANERJEE LANE, CALCUTTA-20.

NO.1/27/91-PUBLIC

DATED: 31-5-1993

3 1 MAY 1997

REFERENCE MY D.O. LETTER OF EVEN NUMBER DATED 14TH MAY 1993 REGARDING WRIT PETITION C.O. NO. (W)/92 FILED BY SHRI BIJAN GHOSH AGAINST UNION OF INDIA AND OTHERS ABOUT CONFERMENT OF THE DECORATION OF BHARAT RATNA ( POSTHUMOUSLY) ON NETAJI SUBHASH CHANDRA BOSE(.) REQUEST SEND URGENTLY AFFIDAVIT-IN-OPPOSITION DULY FINALISED TO THIS MINISTRY WITH RELATED INSTRUCTIONS ABOUT NUMBER OF COPIES AND ITS SWEARING IN WHETHER BY A NOTARY PUBLIC OR OATH COMMISSIONER ETC. TO ENABLE REQUIRED FOLLOW UP ACTION BY THIS MINISTRY AND THEREAFTER ITS FORMAL FILING IN THE HIGH COURT AT CALCUTTA(.)

NOT TO BE TELEGRAPHED.

(V.P. BHATIA)
Under Secretary to the Government of India.

Copy by post in confirmation and necessary action to Shri S.K. Kundu, Central Government Advocate, Branch Secretariat, Ministry of Law, Justice & Company Affairs, 4 K.S. Roy Road, Calcutta-

ISSUED

SIGNATURE SIGNATURE SELECTION SELECTIO

( V.P. Bhatia )
Under Secretary to the Govt. of
India.

अडडी वाडी १८८८ वाडी १८८८ इ वन्त्रालय अप of Home Affens विकास New Delhi

S. No. 17 (R)

COURT MOTTER

Government of India

Ministry of Law, Justice and Co. Affairs

Proportion of Lagal Affairs

Judicial Section

Home Affairs Red New Delhi

439 'A' Wing, Shastri Bhavan, New Delhi-110 OC1.

51143/15-DIU

Subject: C.O. (W)/93-Bijan Ghosh vs. Union of India & Ors.

010976 Sm

742/93 Public

upon the Attorney General for India. The subject matter pertains to the Ministry of Home Affairs Department of

They may please take over the Notice for further necessary action.

Parawise comments may kindly be prepared and forwarded to Shri S. Gooptu, Sr. Govt. Advocate, Branch Secretariat, 4, K.S. Roy Road, Ministry of Law and Justice, Department of Legal Affairs, Calcutta.

to defend the interest of Government of India in the concerned High Court.

mot by DS(30)

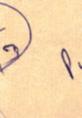
( V. Ravindran ) Section Officer.

Ministry of Home Affairs,

North Block,
New Delhi.

I.D.No.44(5)(93+Jud1., dated 16.2.93.

to Mas



Public Pin

on 169

alte Byjan Ghosh

DISTRICT : Howrah

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

( Appellate Side )

In the matter of :
An application under Article 226
of the Constitution of India;

- And -

In the matter of :

A Writ in the nature of Mandamus ;

- And -

In the matter of :
A Writ in the nature of Certiorari;

- And -

In the matter of :
Any other writ and/or writs, order
and/or orders, direction and/or
directions;

- And In the matter of:
Arts 19,21, 51A of the Constitution of India.
- And -

Contd...2.

In the matter of:
The highest Civilian Award
'Bharat Ratna' conferred upon
Subhas Chandra Bose posthumously
without having any official
declaration by Union of India of
His death and/or admission of
His death;

- And -

# In the matter of :

A direction upon the Union of India to declare post-facto the death of Subhas Chandra Bose;

- And -

In the matter of :
'Right to Know' is an extention of

- And -

Fundamental Rights ;

In the matter of s

Bijan Ghosh, Advocate

practising at High Court at Calcutta

Son of Sri Benoy Krishna Ghosh

B-172, B.E. College, Howrah-3.

... Petitioner.

Contd...3.

### - Versus -

1. The Union of India
represented through the Secretary,
Ministry of Home Affairs,
New Delhi-1.

2. The Union of India
service through the Secretary,
Ministry of Human Resources &
Development,
New Delhi - 1.

To

The Hon'ble Mr. A.M. Bhattacharjee, Acting Chief Justice and His Companion Justices of the said Hon'ble Court.

The humble petition of the petitioner abovenamed most respectfully -

## SHEWETHS

1. Your petitioner is a Gitizen of India and resides permanently in the address given in the cause title. He is an Advocate, practising at High Court at Calcutta.

Contd...4.

The death of Subhas Chandra Bose, the main architect of the Freedom of India, is still a 'unsolved mistry'. It was allegedly reported that Subhas Chandra Bose died at a plane crash on 18th August, 1945 at Taihaku, now called Taipei in Taiwan but the Nation reasonably believes that the actual death of Subhas Chandra Bose was not caused in the reported plane crash. As a resuly of that different enquiry commissions were held to prove the Death but Findings/conclusions of them had not been at all accepted by the Government of India as well as the Citizens of India. Awarding a person 'Posthumously' concludes that the person is dead. The Nation have every right to know about the actual Death of the National Hero, the cause(s) of the death, if He is really dead by now. As such this application is made in the National Interest and this application be treated as a Public Interest Litigation.

3. His Excelency, the President of India, had the pleasure to confer 'Bharat Ratna' upon Subhas Chandra Bose on 26th January 1992 posthumously, which concludes that the Government of India is hereby officially admitting that Shhas Chandra Bose is dead. At the same time by awarding him Bharat Ratna, the Highest Civilian honour posthumously, the President of India has declared the

India before that had not declared any where that Subhas Chandra Bose is dead and had not officially accepted the alleged report of Subhas Chandra Bose's death on air crash on 18th August, 1945, in Taiwan or findings of any commission. There is neither any declaration from any International Government or Authority either that Subhas Chandra Bose died on that air crash nor in any other specific event. Without the specific report of death of Subhas Chandra Bose, the Government of India cannot and should not award him the highest civilian honour posthumously.

Bose, to assert the facts related to the plane crash and/or death of Subhas Chandra Bose Shah Nawaz Committee was apointed by the Government of India in the year 1956 i.e. after a period of eleven years from the alleged air crash followed by the announcement by Tokyo Radio. The Government of India, headed by Indira Gandhi had not accepted the report of the Shah Nawaz Committee while setting up the 2nd enquiry commission, a Judicial Commission consisting of Mr. Justice Khosla, a retired Chief Justice of Punjab High Court called as Khosla Commission. The Khosla Commission's report which was submitted in June, 1974 with the findings in favour of

alleged air crash, had also been rejected by the Government of India headed by Morarji Desai. The then Prime Minister, Morarji Desai, in the Loksobha on September 3, 1978 declared that with some contemporary records which had been available, in the light of doubts and contradiction and with those records, the Government find it difficult to accept the earlier findings and conclusions of the Shah Navaz Committee and that of the Khosla Commission and this declaration of Morarji Desai decisively proves beyond all doubts that the death of Subhas Chandra Bose was not officially accepted and recorded by the Government of India and perhaps for that reasons, the Bharat Ratna could not be awarded posthumously to him before. Hence in the question of declaring and/or considering a person dead, if he/she is unheard of 7 years, cannot be arised here. Further to that the Government of India, headed by then Prime Minister, Mr. Chandra Shakher, ordered for a 3rd Enquiry Commission to unearth the 'unsolved mistry' of Subhas Chandra Bose's death, but the official order has not yet been carried out me for some administrative reasons.

5. Subhas Chandra Bose was conferred the title 'Nataji'. Gandhiji said about him " Subhas is the patriot

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of Patriots, the prince of Patriots". The people of India have profound regard in Him. He all along had been admitted as a National Hero. He was the main architect of the freedom of India. The Countrymen have become stupied as to what propelled the Government of India to confer the award to him. Award is a recognition conferred to a person for his achievement, contribution and success in any field. An award makes a man award has it's congenital limitation. But when a persobality is higher and greater than any award, conferring the award to that person becomes ridiculous. Butxwhenxa parametrity It becomes an act of carelessness tolimit that person ranking with others who had already been awarded and who would be awarded in future, Sometimes conferring award to a person becomes an insult to him. instead of an honour to him. That is why a we also find that some persons under some unwanted situation or in some derogatory circumstances reject such honour or do not receive such award. Award is made to account and recognise the success/contribution/achievement of a man. Has the Government of India now able to measure and success the His contributions to the freedom struggle of India and was his success subject to recognition by the Government of India and that too diffix officially Conferring the award Bharat Ratna cannot be a 'prizegiving ceremoney'. Reward of the patriot was the freedom of His mother Land, it cannot be a functional honour.

6. An Award, whatever may be the honour status of that, may not always be a reward to a personality. It could ridicule and rebuke him, it may degenarate, debase and defame him.

It may be derogatory to the person who is awarded if he is much more greater than the award itself. A personality like him should in not be ranked with other receipients of Bharat Ratna by conferring him the award, may it be the highest civilian award, Not necessarily an award would always make the receipient glorified, sometimes it just damage the purpose itself when it turns to a humiliation on the part of the receipient.

the Government of India to recognise His success, to fathom his achievements, to reward His contribution to admire His sacrifice. The decision and act of Government of India are really ridiculous and have got no rational basis. Virtually he has been purnished and by this award. It is not a regard but a sheer disregard to him. The persons, who had been conferred with Bharat Ratna before Him are chromologically Radha Krishnan, G. Rajagopalachary, Dr. G.V. Raman, Dr. Bhagaban Das, M. Bisheshwarayya, Jaharlal Nehru, Gobindallav Panth, D.K. Karve,

Bidhan Chandra Roy, PhrushottamDas Tandon, Dr. Rajendra Prashad, Dr. Jakir Hushen, P.V. Kane, Lalbahadur Shastri, Indira Gandhi, V.V. Giri, K. Kamraj, Mother Herisa, Binoba Bhave, Khan Abdul Gaffor Khan, M.G. Ramchandran, B.R. Ambedkar, Nelson-Mandela, Morarji Desai, Rajiv Gandhi, Ballav Bhai Patel respectively. It cannot be said that all of them were superior to Him or His contributions were less worthy than anybody's amongst the foregoing names. It is also a question to the people that what makes awarding Him Bharat Ratna along with M. A.K. Azad on the same day. They were not at all equal in rank as far the freedom movement of India was concerned. After Him, till date, J.R.D. Tata and Satyajit Ray have been conferred Bharat Ratna. Should the Government of India rank Stabhas Chandra Bose with all these persons or with all such persons who would be awarded Bharat Ratna in future.

8. There was a total no application of mind on the part of the Government of India in conferring Him Bharat Ratna. It was totally an mechanical approach in awarding Him. The Government of India should have meticulously considered whether it would be a regard or disregard in awarding Him Bharat Ratna after 45 years of Independence and that too after awarding the same to a lot of persons. Had he been the Mirst receipient of this award, still it

would been the public reaction that awarding Him was an attempt to limit Him, His success, contribution and attainments. The Government of India should have judge the matter carefully, not mechanically and superficially; the public sentiments, emptions and feelings should have been taken into account before conferring Him any award. Without having any attempt afresh to know about the mistry of His Death, without having any regard to the honour the people have for Subhas Chandra Bose, the Government of India awarded Him and that too posthumously and the award which had been conferred by this time to a number of person who cannot be ranked with him by any way. The Government of India has no right and authority to insult a National Hero; to defame and disregard a man who was the main architect of the freedom of India, to hurt the feelings, sentiments and admiration of the people of India, to dishonour and humiliate a personality by just attaching a mark of award whereas the award is meant for other person who needs statutory recognition and honour. The Government of India should reconsider the decision of conferring Him Bharat Ratna and there is no iota of coubt about it that it would be a mike mark of true respect and honour to Him if He is not leveled with any award. The declaration of conferring Bharat Ratna to Fim should be withdrew/recalled as a mark of true respect and honour to Him.

Your petitioner craves leave to submit the account of public sentiment and feelings as reported in press against this decision of Government.

Further to that there was no disclosure of the material facts on the basis whereof the Government of India has chosen to describe the award as posthumous. For some obvious reasons the reports and findings of Shah Nawaz Committee and Khosla Commission were declared not decisive. Am importent dignitory in his speech on the occassion of installation of Shab Subhas Chandra Bose's protrait in the Central hall of the parliament in sometime 1977 contained on indications about the uncertainty of his having died in the meantime, rather wat wishing his homecoming even for a day.

- 9. Subhas Chandra Bose left his house at Calcutta on 17.1.1941, evading house arrest, reached Japan in May 1943, en-route Afganisthan, Soviet Russia, Germany, Madagascar and Sumatra.
- 10. Japan officially surrendered on 15th August 1945.

  After the fall of Japan in August, 1945, since it was
  not safe for him to stay in any part of East Asia, he
  left for an asylum, in all probability that was the
  then Soviet Russia it is not just a sentimental belief

or mere juncture but there are enough circumstantial evidence, documentary reports and other auxilliary testimonials to accept this conclusion. It is believed that Subhas Chandra Bose successfully managed to enter the then Soviet Russian territory via Manturia under the comouflage of the report of his air crash death on 18th August 1945.

11. It is reasonably believed that Subhas Chandra Bose went to the them Soviet Russia and wanted to come back to India sometime in 1945-46, but subsequently, somehow it was ma naged at any level and he was kept in the then Soviet Russia against his will and for some reasons or others, he was not allowed to come to India. Propelled by this strong impression all the persons who took the matter of Subhas Chandra Bose's death mistery in the National interest, all along wrote the authorities concerned to the then Soviet Russia even to the new born Russia to reveal all the facts and truths related to death mistry of Subhas Chandra Bose. But till date, no such information has been received by the people of India. It is needless to mention that Subhas Chandra Bose was never declared a War Criminal.

12. It was along doubted that the alleged plane crash was a camouflage of the report under which

Subhas Chandra Bose left East Asia and took shelter in any part of the world and the legical conclusion was the then Soviet Russia, which all along was very friendly to Subhas Chandra Bose and he had a profound faith in the Phylosophy of Socialism. All along, different Indians, in representative capacity as well as in individual capacity wrote to the then Soviet Russian authorities that Subhas Chandra Bose was in the then Soviet Russia and should be handed over to the Indian Government. Mr. Samar Guha, who was an M.P., as a leader of the Socialist Part of the Lok Sabha met Breznav at Rastrapati Bhavan when the later visited India and presented a three-page memorandum on 23.11.1973 with a request that Moscow should reveal all the facts about Him. In which it was outlined the reasons categorically why Indian believe that Subhas Chandra Bose was given shelter by Stalin after exp escaped from Saibheria on 23.8.45. But no reply was received either from Delhi or from Moscow, neither the request was turned down in writting. The same request was made to Mr. Gorbachev after he came to power which too went un-answered.

13. Freedom and Democracy are the two things which are supplementary to each other and one can not exist without the other. Freedom is all pre pervading. It includes the freedom of information. In a Democratic

soion are guaranteed as fundamental rights, which concludes well that freedom of information is also within
the meaning of fundamental rights because the resource
of thought and expression are information and knowledge.
A free and democratic State cannot afford to ignore the
freedom of information to Her citizens, specially which
is a question of National Interest, more preciously
relating to the death of anational Hero, me the main
architect of the freedom of India. Freedom, in its'
true spirit is guaranted in the Constitution as Fundamental Right and as such 'Freedom of Information' should
also be honoured as Fundamental Right. The promises
of unconditional Freedom in true sense are pilin; up
but the day of fulfilment is no where in sight.

14. It would be social injustice if the people are deprived of 'Right to know'. It cannot be said that social justice has been done if there is no right to know, no freedom of information, especially which is a province of National Importance, and in no way related with the Defence and Security affairs of the State.

15. The right to know should be treated with paramount importance and of fundamental bearing in a Democratic Republic, Right to know is as fundamental as Right to

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life. The constitution of India had been contemplated in it's preamble : Justice - Social, Economical and political.

The Justice cannot be ensured without proper freedom of information and right to know. Every citizen has every right to know everything save and except the exclusive defende matters which is the province of security of State. Furnishing information with regard to ' right to know' is required for the due discharge of the duties on the part of the Government even if it is required to obtain from any part of the world. A democatic Republic State cannot promote a tipical kind of 'mental-slevary' to her people by adopting the practice of furnishing edited information. If there is no subjection in free India, if thereis no master-salave relation between the Government and people in a Republic State, then the people have every right to know. In a Republic, arganization by definition a Government is made by the people, of the people, for the people and as such if the people, are not guaranteed of their right to know then by the definition itself, the Government does not remain Democratic Republic.

Ministry admitted that right to know the truth is with the pervisw of fundamental right but that remains mere a theoritical declaration.

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17. A men of Subhas Chandra Bose's stature and importance, glamour and glory, struggle and success should bot be declared dead in the camouflage of xx awarding posthumously. Vertually Government is thus striving to conclude all further enquiry commission(s) which could unearth the truth related to his death or his unwilling detention in any country where he took political asylam.

18. The Government of India did not care to honour the freedom of information to her citizens, British Government published the documents related to 'Transfer-of-Power 1942-47' in 1975 revealing many a documents, relating to freedom struggle of India but the Government of India remained idle and indifferent about the documents, deeds published in the said 'Transfer-of-power A number of documents only referred but not published. India should have been asked British Government about clarification and relation of some document, records and remarks and for uncarthing more facts and the truths related to the freedom struggle of India and her political personalities for a review afresh.

India attained 'freedom' by way of Transfer-of-Power by virtue of an Act passed in British Parliament 18.7.47 nemely Indian Independence Act, 1947. The Government of British Transferred the Power to
Government of India, conditionally, interalia, that the
all Documents of 'Transfer-of-Power' would not be
realeased before 1999, i.e. after 50 years from the
enactment of the Constitutional Law of India. In a
civilised world, for an independent country this is
unthinkable and unheard of.

Even after the breaking of the Soviet Russia, the Government of India did not take any attempt to know about the 'Unsolved Mistry'which is haunting the country for about half a century, whereas all the time all the doubts were hurbered about Subhas Chandra Bose's stay at the then Soviet Russia. The State archieves of the then Soviet Russia's inteligence service, commonly known as K.G.B., which was also as very much right and resourceful on International secrete information, is now accessible to all but the Government of India did not take any attempt to investigate, search out information over where about India's freedom strugged or her men, specially of Subhas Chandra Bose.

In a question of National Importance, the State can not ignore her responsibility by deliberately terning her fact back to the mines of information.

19. That no application is pending before this Hon'ble Court or any other Court for the same self cause of action.

20. Being aggrieved by and dissatisfied with the mechanical decision and total non-application of mind on the part of Government of India with regard to conferring Bharat Ratna to Subhas Chandra Bese and that too posthumously without having any official declaration of the death of Subhas Chandra Bese, your petitioner begs to move this application under the Constitutional Writ Jurisdiction amongst the other following s-

# GROUNDS

- I. For that the Government of India has never admitted and declared that Subhas Chandra Bose is dead and without having such official declaration and/or admission, the Government of India can not award him posthumously.
- II. For that the machanical approach and non-application of mind on the part of Government of India, have prejudiced the profound feelings and admiration of the people throughout the country for Subhas Chandra Bose and Government of India should withdrew/recall the award conferred to him as a mark of true-honour to Him.

- III. For that the Government of India should not have ranked Him with others receipients of Bharat Ratna, should not have limited Him by awarding Him Bharat Ratna, may it be the highest civilian award.
- IV. For that the Government of India should not have awarded Him Bharat Ratna, as His achievements were much more glorious and magnificient than any award.
- V. For that a statutory and functional recognition by way of conferring Him an award has vertually dishonoured Him and as such the Government of India should re-consider the matter de-novo and till such afresh decision the award should not be handed over to anybody on His behalf.
- VI. For that His contribution and secrifice, success and achievements, struggle and petriotism could not be matched with or ranked by any award, may it be the highest civilion honour, Bharat Ratna.
- VII. For that before conferring Him the award the Government of India mom ought to have consider these aspects whether the award itself would reward or ridicule Him, would honour or dishomour and defame Him, would aprisiate or deprisate Him since every award has it's congenial limitations and as such award is not meant for every body.

- VIII. For that Bharat Ratna is the highest civilian award given from the office of President and Subhas Chandra Bose was the main architect of the Freedom of India and as such, such an erroneous and unconstitutional functioning on the part of the Government of India cannot be appreciated.
- IX. For that the Government of India should have declared first that Subhas Chandra Bose is dead, the declaration being substantiated by documents and evidences beyond doubts, before awarding him posthumously.
- X. For that the Government cannot take the plea that he is dead in the eye of law as he is unheard of more than 7 years from the date of his alleged report, of death, i.e. from 18th August, 1945, since the Government of India did not admit even in 1978 that Subhas Chandra Bose is dead and subsequently ordered for another enquiry commission.
- XI. For that without having any endeavour to get the true and real facts about the death of Subhas Chandra Bose after the changed International political circumstances which has become conducive

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to reveal the facts, the Government of India should not declare him dead by awarding him just posthumously.

- XII. For that by conferring the award, Bharat Ratna, posthumously to Subhas Chandra Bose is otherwise illegal official declaration of death of Subhas Chandra Bose, which is not at all permissible under the law.
- XIII. For that the Government of India took the comouflage of awarding Subhas Chandra Bose posthumously to put an end to the Enquiry(s) which is yet to be concluded satisfactorily to unvail the truth relating to the alleged report of death of Subhas Chandra Bose.
- XIV. For that conferring the award, Bharat Ratna, posthumously to Subhas Chandra Bose is an unprecedented case of conviction without trial and as such the said award should be withheld unless and untill His death is conclusively proved and officially declared.
- XV. For that the Government of India has never admitted the death of Subhas Chandra Bose after the

Contd ... 22.

Commission and the Government of India headed by Chandrasekhar ordered & for another enquiry commission to be concluded on the unsolved mistry of death of Subhas Chandra Bose and without having the conclusive report of the said 3rd commission, thus ordered, the Government of India cannot declare a person 'dead' by awarding him posthamously.

- XVI. For that citizen of India have the freedom of information and the Government of India cannot afford to neglect the responsibilities and liabilities of furnishing the information, specially which is involved in the National Importance.
- XVII. For that the Government of India cannot sit idle
  in not investigating the 'unsolved mistry' relating to the death of Subhas Chandra Bose whereas
  he was the main architect of the Freedom of India.
- XVIII. For that this application is made in the National Interest and keeping pace with the National feelings and sentiments which all Indians still retain about Subhas Chandra Bose.

- XIX. For that before declaring him officially dead in the camouflage of awarding him posthumously, the Government of India should strive to find out in every quarter of the World whether Subhas Chandra Bose is dead or not, if dead when he died, how he died, where he died and what happened to the dead body.
- XX. For that the Government of India cannot declare a person dead without being satisfied substantially, evidentially and documentarily about the death and cannot declare a person dead by way of awarding him posthumously and as such, the award should be withheld until and unless the death is officially declared by the Government of India.
- XXI. For that the Government of India owe and explanation and obligation to Her people, being a
  Republic Country, to speak out the truth on the
  basis of record and evidence and the same can
  not be circumvented by making a posthumous award.
- XXII. For that it is reasonably believed that Subhas

  Chandra Bose left for the then Soviet Union under

  the camuoflage of the report of the plane crash

  and spent the rest of his life over there, may be

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against his pleasure and the Government of India awarded him posthumously on January 26, 1992 without having any enquiry officially in the political State Inteligence Archives of the then Soviet Union which is now easy accessible to all after the breaking of Soviet Union in December 25, 1991.

XXIII. For that before declaring Him dead the Government of India should order for a commission to be constituted by a highly technically efficient men for fishing out with all sincerity the information from all possible corners of the Globe which is also very available now in the charged International Political situation.

to Him posthumously, the Government of India can not afford to shrink in discharging it's responsibilities and can not evade it's obligations to find out and establish the truth beyond all doubts about the said 'mistry' even if, the award Bharat Ratna is subsequently withdrawn as a mark of true respect to Subhas Chandra Bose.

Contd ... 25.

Your petitioner submits that since the people of India have not admitted and accepted the conferring of Bharat Ratna to Subhas Chandra Bose as a mark of Honour and Recognition to Him, and as such through out the country, irrespective of political faith and belief, the people have critisied this decision and declaration of Government of India and demanded withdrawal and/or cancellation of this award conferred the Him. The question of conferring Bharat Ratna to Subhas Chandra Bose was raised in the floor of West Bengal Legislative Assembly and the entire Assembly, without any reservation. conveyed the request to the President of India, who was then in Calcutta, to cancel the Award. A citizen's convention was held on 22nd February, 1992, at Calcutta University centenary Hall to demand immediate withdrawl of the said posthumous award. Neither from His family nor anybody from Government of West Bengal went to receive the award on His behalf on 28th March, 1992 at Rastrapati Bhavan, on the occassion of Bharat Ratna award giving carimony or thereafter. The Authority has decided to handover the award to His family on his behalf on the second occassion, held on 6th April, 1992, at Rastrapati Bhavan finding no other alternative to such situation. But none accepted the award on His behalf. The Authority concerned must re-consider the decision of conferring Him Bharat Ratna and to withdraw the same as a special case.

Your petitioner further submits that the fundamental responsibility of Government of India to make a full and faithfull disclosure of all the facts and records. The word secret, specially in political arina, is a relative factor. Nothing could be secret for infinite time span. The Secret Files/Documents of Government of India of 1950 is no more of that secrecy as on to-day. With the passing of time the necessity of secrecy is forfited in itself. If any thing is kept secret perpitually, then it becomes conclusive that the matter is made secret purposively. Award or no award, even the search of a missing citizen must come to an end at some state of conclusiveness. There is no doubt that it would be much honour if His countrymen could know the truth and fact about His misterious disappearance and suspected detention in some foreign country against His will, than to treat the award as posthumous either by presumption or by suppression of facts. It is not known whether there exists an actual mystary or a mystory has been created to hold back the truth from the Indian people. The openion sustains in public mind in this respect that the most evasive and mysterious stands had been resorted by the Government of India, at least till 1991. It is of no use making any enquiry in a mysterious way to it solve a mystry. This is not an inexplicable mystry, but the Government of India alone had been striving to make it inexplicable.

23. Although quite in the day the quest for the truth has arisen once again in the context of the announcement about the posthumous award and let us only hope that the quest itself does not turn out to be posthumous or abortive. People have to be told in precise terms and with fullest details if the expression " posthumously " has any legitimate foundation.

24. No demand of justice has been served upon the respondent, since that would be mere ornamental in maintaining the procedure.

25. Your petitioner submits that no other speedy and effective forum is available to him and there will be a total redressal of the Nation wide public grivances and complete justice to a National question.

26. This petition is made bonafide and for the ends of justice.

Under the aforesaid facts and circumstances, Your petitioner most respectfully prays that Your Lordships may graciously be please to issue :-

- a) A Writ in the nature of Mandamus calling upon the respondent authorities to cancel and/or withdraw and/or recall the award, viz. Bharat Ratna which has been conferred on Subhas Chandra Bose on 26th January, 1992, which has yet been handedover to anybody on behalf of him, as a mark of true and fair respect and honour to a man who is beyond any functional award.
- b) A Writ in the nature of Mandamus calling upon the respondent authorities to declare officially that Subhas Chandra Bose is dead, since the Government has awarded him posthumously.
- c) A Writ in the nature of Mandamus calling upon the respondent authorities to declare the details of Death of Subhas Chandra Bose i.e. when the death occured, how the death occured, where the death occured and what happened to the dead body.

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- d) A Writ in the nature of Mandamus calling upon the respondent authorities to form and constitute a 'High-level Enquiry Committee' to unearth the truth and facts beyond all doubts related with the unsolved mistry of the death of Subhas Chandra Bose.
- e) A Writ in the nature of Certiorari
  calling upon the respondent authorities
  to produce all the records available
  to them related to the death of Subhas
  Chandra Bose, in original, so that
  consignable justice may by administered
- f) Rule NISI in terms of prayers (a), to (e);
- g) Any other appropriate writ and/or writs as Your Lordships may deem fit and proper.
- b) An ad-interim order of injunction restraining the respondent authority from handing over the award to anybody

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on His behalf and/or placing the award in National Museum or in some other place.

i) any other appropriate order and/or orders, direction and/or directions as Your Lordships may deem fit and proper.

And your petitioner, as in duty bound, shall ever pray.

sd/ Bijan ahosh in person

### AFFIDAVIT

I, Sri Bijan Ghosh, son of Sri Benoy Krishna
Ghosh, aged about 37 years, by Caste Hindu, by occupation
Advocate, practising at High Court, Calcutta, residing
at B-172, B.E. College, Howrah-3, do hereby solemnly
affirm and say as follows:-

- 1. That I am the writ petitioner and I am well acquainted with the facts and circumstances of the case.
- 2. That the statements made in paragraph Nos. 1 to 6, 8, 13, 14, 15, 17, 24, 26 are true to my knowledge and those made in paragraphs No. 7, 9, 10, 11, 12, 16 18 excepting Last paragraph are derived from records and newspapers and rest are my humble submissions bef this Hon'ble Court.

Prepared by me.

Sd (= Bijon abrah

(Advocate)

Sd/= Bijan Chosh)
Deponent (Advocate)

solemnly affirmed before me this the 18th day of January, 1993.

Commissioner.

## DISTRICT : CALCUTTA

IN THE HIGH COURT AT CALCUTTA Constitutional Writ Jurisdiction ( Appellate Side )

## In the matter of :

An application under Article 225 of the Constitution of India;

- And -

In the matter of :

Bijan Ghosh

... Petitioner, in person

- Versus -

The Union of India & Anr.

... Respondents.

PETITION

BIJAN CHOSH, in person Advocate Bar Association, Room No. 11, High Court, Calcutta.

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STATE

EXPRESS

TELEGRAM

SHRI AMITAVA DATTA, ADVOCATE, HIGH COURT, 18-B, ANNADA BANERJEE LANE, CALCUTTA -20.

NO.1/27/91-PUBLIC

DATED : 18TH JUNE, 1993.

REFERENCE MY D.O. LETTER OF EVEN NUMBER DATED 14TH MAY 1993
AND THIS MINISTRY'S TELEGRAM OF EVEN NUMBER DATED 31ST MAY
1993 REGARDING WRIT PETITION C.C. NO (W)/92 FILED BY
SHRI BLJAN GHOSH AGAINST UNION OF INDIA AND OTHERS ABOUT
CONFERMENT OF THE DECORATION OF BHARAT RATHA (POSTHUMOUSLY)
ON NETAJI SUBHASH CHANDRA BOSE (.) REQUEST SEND IMPEDIATELY
AFFIDAVIT-IN-OPPOSITION DULY FINALISED TO THIS MINISTRY
TOGETHER WITH CLARIFICATION SOUGHT THERE IN (.)

NOT TO BE TELEGRAPHED :

MIRT 150/6

Margi, वह सम्पादः १ Section W.Hot UNDER SECY. TO THE GOVT. OF INDIA.

## BY SPEED POST

Senel AN 0 6/93

Copy by post in Confirmation and necessary action to shri S.K. Kundu, Central Government Advocate, Branch Sectt., Ministry of Law, Justice & Company Affairs, 4 K.S. Roy Road, Calcutta.

UNDER SECY. TO THE GOVT. OF IND IA.

# S. No. 19 (Samo

No.1/27/91-Public Government of India Ministry of Home Affairs

2 y JUN 1993

2 1 JUN 1993

New Delhi, dated the 18th June, 1993.

To

Shri P.C. Kannan, Additional Legal Adviser, Department of Legal Affairs, Ministry of Law, Justice & Company Affairs, Shastri Bhavan, New Delhi.

Subject:- Writ Petition C.O. No. (W)/92 filed by Shri Bijan Ghosh against Union of India and others about conferment of the decoration of Bharat Ratna (posthumously) on Netaji Subhash Chandra Bose.

Sir,

या

I am directed to refer to your dooletter

Dy. No. 916/93-Judl. dated the 11th February, 1993 addressed to Shri M.V. Iyer, Joint Secretary on the above captioned subject and to say that in this case the parawise comments after preparation in this Ministry were sent to Shri S.K. Kundu. Central Government Advocate, Branch Sectt., Ministry of Law, Justice & Company Affairs, 4 K.S. Roy Road, Calcutta, vide my d.o. letter of even number dated the 20th April, 1993 with the request that the Affidavit-in-Opposition be finalised expeditiously and the same returned to us for necessary execution and returning the same for formally filing in the Hon ble High Court. at Calcutta (A copy of the letter alongwith enclosures enclosed for reference). The matter was also taken up with Shri Amitava Datta, Adwocate, High Court. 18-B. Annada Banerjee Lane, Calcutta-20 vide my d.o. letter of even number dated the 14th May, 1993 (copy enclosed for reference) and telegram of even number dated the 31st May, 1993 (copy enclosed). However, nothing is heard either from Shri Kundu or from Shri Datta in this matter.

2. It is in these circumstances that I am venturing to request you to kindly issue suitable instructions to Shri S.K. Kundu, Central Government Advocate to ensure that the matter is attended to on top priority.

Yours faithfully,

Under Secretary to the Govt. of India.

ि **SSUED**21 JUN 1993
(\*\* तथा प्र०/R & I

1412/93/02/0

P. Kannan, Adl. Legal Adviser

.O.F.No.22(2)/93-Jud1.

New Delhi, 2nd July, 93.

ear Shri Kundu,

I am enclosing a copy of letter dated 18th June '93 received from Ministry of Home Affairs which is selfexplanatory. The letter is self-explanatory.

I request you to take necessary action on the same.

cuet regard, Yours sincerely,

( P.C. Kannan )

Shri S.K. Kundu, Central Govt. Advocate, Calcutta Branch Sectt., 4, K.S. Roy Road, Calcutta.

Copy to: Shri V.P. Bhatia Under Secretary, Ministry of Home Affairs, North Block, New Delhi, w.r. to his letter No. 1/27/91-Public dated 21.6.93. You depute an offices to onest sp. Kunder Rhowy

( P.C. Kannan )

Pl. b. m fle.

SHRI S.K. KUNDU,
CENTRAL GOVERNMENT ADVOCATE,
BRANCH SECRETARIAT,
MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS,
4 K.S. ROY ROAD,
CALCUTTA.

NO.1/27/91-PUBLIC

DATED: 19TH JULY, 1993.

REFERENCE. MY TELEGRAM OF EVEN NUMBER DATED 18TH JUNE 1993 REGARDING WRIT PETITION C.O. NO. (W)/92 FILED BY SHRI BIJAN GHOSH AGAINST UNION OF INDIA & OTHERS ABOUT CONFERMENT OF THE DECORATION OF BHARAT RATNA (POSTHUMOUSLY) ON NETAJI SUBHASH CHANDRA BOSE(.) YOUR ATTENTION IS ALSO INVITED TO THE TELEPHONIC CONVERSATION WHICH SHRI L.B. SINATE, DIRECTOR IN THIS MINISTRY HAD WITH YOU ON 15TH JULY 1993 (.) IT WOULD BE APPRECIATED IF THE DRAFT COUNTER AFFIDAVIT DULY FINALISED ON BEHALF OF THE UNION OF INDIA COULD BE SENT TO THIS MINISTRY EXPEDITIOUSLY BY SPEED POST AS PROMISED BY YOU(.) AS INDICATED BY YOU THAT ANOTHER CASE HAS ALSO BEEN FILED ON THE SAME IF IT IS SO, IT IS REQUESTED THAT A COPY OF THE SECOND PETITION MAY ALSO BE OBTAINED FROM THE REGISTRY OF THE COURT AND THE SAME SENT TO THIS MINISTRY FOR FURTHER NECESSARY ACTION(.)

HOME NEW DELHI

Bhalm

( V.P. BHATIA )

NOT TO BE TELEGRAPHED.

19 JUL 199 Speed Post

UNDER SECRETARY TO THE GOVT. OF

Dated: 19-7-1993

Copy by post in confirmation to Shri S.K. Kundu, Central Government Advocate, Branch Secretariate, Ministry of Law, Justice & Company Affairs, 4 K.S. Roy Road, Calcutta, with the request that the counter affidavit duly finalised in the writ petition filed by Shri Bij n Ghosh may kindly be made available to this Ministry expeditiously. As hinted by you during a telephonic conversation with you by Shri L.B. Sinate, Director in this Ministry, that a second similar writ petition has also been filed by another individual in the West Bengal High Court. If it is so, it would be appreciated if a copy thereof is obtained urgently from the Registry of the Court and sent to this Ministry by Speed Post.

UNDER SECRETARY TO THE GOVT.
OF INDIA.

S. do . 22CR) 1625 93 Public 14agloir codu) }

OFFICE OF THE ATTORNEY GENERAL FOR INDIA

C.O.6720(W) of 1993 - Bijan Ghosh vs. Union of India and Others.

A copy of the letter dated 19th July, 1993, received from Shri Bijan Ghosh, Advocate, Calcutta, along with a copy of the order of the Calcutta High Court, is sent herewith. The letter has obviously been sent under the misconception that the office of the Attorney General for India is to be served on behalf of Union of India and wrongly records that copies of the writ application and other notices have already been served. It is possible that the writ application may have been served on the Union of India either in Calcutta or in Delhi. In any case, steps may please be taken in respect of the direction of the Court as will appear from the copy of the order enclosed. It will also appear that the Attorney General is not involved as no notice to the Attorney General is referred to in the order.

Minim ( O. P. Kapur ) PS to A.G. 19.7.1993

Shri P.C. Kannan, Addl. L.A.

Dept. of Legal Affairs Judl See

15/2 at 4 10 pm PI- KOOP " copyich

10 HO 1. 34 8.2 (440)

10 Dated - 19 - 17 92

ont today)

The papers secured in original Joseph The office of A.G. are pucheed. I

In letters are self emplanatory.

2. Immediate action may be taken to defend the Case + a Senior Office may be deputed to attend the hearing of the case on 218193 at calcutta. M. H. A (Sin . M. V. 1 year)

MO-dow, Judl sceling F. No. 22 (1) /93 - Troll

146

CHAMBER 22A CHAKRABERIA LANE CALCUTTA 700 020

ADVOCATE
OURT CALCUTTA
BAR ASSOCIATION ROOM NO 11
BAR 28 3190 28 5579

29 th July 1993

To,
The Hon'ble Attorney General ofIndia,
Supreme Court of India,
NEW DELHI- 110001

Subject: Writ Application challenging the conferring of 'Bharat Ratna' fipon Netaji Posthumously.

Reference: C.O. 6720(W) of 1993
Bijan Ghosh..

VS
Union of India & Ors.

hon'ble Attorney General,

Enclosed please find a zerox copy of the order dated 4th February 1993 passed by the Hon'ble Mr.Justice Banarjee in the abovesaid matter, which would speak for itself.

The matter appeared on 5th July 1993 before the Hon'ble Mr. Justice Shyamal Sen, where none appeared on behalf of respondent authorities inspite of service of notice, and His Lordship was pleased to further direct the respondents authorities to produce all the records and notification relating to conferring 'Bharat Ratna' upon Netaji posthumously on the next date of hearing.

The next date of hearing has been fixed on 2nd August 1993

Please ensure production of Records, documents, notification and other relevent papers on 2nd August 1993.

Copy of writ application and other notices have already been served upon your office.

Thanking you,

Yours faithfully,

(Bijah Ghosh)

Date.

Office notes, reports, orders or proceedings with signature.

Pebruary 1993.

Mr. Bijan Ghosh - (in person)

Mr. A. Chowdhury - for Union of India.

Since this is a public interest litigation, in my view, the question of observation of usual formalities in the matter of addition of parties need not be taken recourse to. As such on the prayer of Mr. Sadhan Roy Chowdhury, learned Advocate, Dr. Susanta Kumar Mitra is added as a party respondent in the matter and the petitioner is directed to serve a copy of the writ petition upon the added respondent.

Affidavit-in-opposition is to be filed within a period of four weeks from the date hereof and reply thereto, if any, within two weeks the reafter and the matter will come up for hearing eight weeks hence.

It is ordered that the entire set of records pertaining to the declaration of the award 'Bharatrat na' in favour of Netaji Subhas Candra Bose be produce on the next date of hearing.

Let a xerox copy of this order be given to the petitioner upon compliance of usual formalities.

Sd. U. C. Banerjee - J

( U. C. Banerjee )

04-1204C-40M

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SHRI S.K. KUNDU, CENTRAL GOVERNMENT ADVOCATE, BRANCH SECRETARIAT, MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS, 4, K.S. ROY ROAD, CALCUTTA.

NO.1/27/1-PUBLIC

DATED: 22ND JULY. 1993.

REFIRENCE MY TELEPHONIC CONVERSATION THIS AFTERNOON REGARDING WRIT PETITION C.O. NO.6720(W) OF 1993 FILED BY SHRI BIJAY GHOSH AGAINST UNION OF INDIA AND OTHERS ABOUT CONFERMENT OF THE DECORATION OF BHARAT RATNA (POSTHUMOUSLY) ON NETAJI SUBHASH CHANDER BOSE(.) AS REQUESTED BY ME ON PHONE I SHALL BE GRATEFUL IF THE DRAFT COUNTER AFFIDAVIT DULY FINALISED ON BEHALF OF UNION OF INDIA TOGETHER WITH COPY OF ANOTHER WRIT PETITION WHICH YOU WERE MENTIONING ARE SENT TO THIS MINISTRY AT YOUR EARLIEST PREFERABLY BY SPEED POST SO THAT THE ISSUES RAISED IN THE OTHER PETITION COULD BE GONE THROUGH AND THE STAND OF THE GOVERNMENT PREPARED THEREON(.) AS THE NEXT DATE OF HEARING AS COMMUNICATED BY SHRI BIJAN GHOSH VIDE HIS LETTER DATED 19TH JULY 1993, ADDRESSED TO THE ATTORNEY GENERAL OF INDIA AND PASSED ON TO THIS MINISTRY, IS 2ND AUGUST, 1993 THE MATTER HAS ASSUMED URGENCY AND IT IS NECESSARY THAT THE PAPERS REFERRED TO ABOVE ARE SENT TO THIS MINISTRY BY SPEED POST SO THAT THESE REACH HERE BY THE END OF THIS WEEK(.)

HOME NEW DELHI

(V.P. BHATIA) SECRETARY TO THE GOVT. UNDER OF INDIA.

Means and the Telepron 2217193

पाठ वी आदिया। (V. P. BHATIA) अवर सचिव Under Secretary गृह मन्त्रालय Ministry of Home Affects

ISSUED व लिजस्द्री, गृह बन्नाबर C. R. Section. M.H.A.

S. No. 24 ( Serves)

STATE

EXPRESS-

TELEGRAM

SHII S.K. KUNDU, CENTRAL GOVERNMENT ADVOCATE, BEANCH SECRETARIAT. MNISTRY OF LAW, JUSTICE & COMPANY AFFAIRS, 4 K.S. ROY ROAD, OLCUTTA.

0.1/27/91-PUBLIC

DATED: 28-7-1993.

EFERENCE MY TELEPHONIC CONVERSATION OF 22ND JULY 1993 AND SUBSEQUENT TELEPHONIC DISCUSSION OF 27TH JULY 1993 REGARDING WRIT PETITION C.O.NO.6720 (W) OF 1993 FILED BY SHIR BIJAN GHOSH AGAINST THE UNION OF INDIA & ORS. ABOUT CONFERMENT OF THE DECORATION OF BHARAT RATNA (POSTHUMOUSLY) ON NETAJL CHANDRA BOSE (.) AS PROMISED BY YOU THAT THE DRAFT COUNTER AFFIDAVIT DULY FINALISED ON BEHALF OF THE UNION OF INDIA TOGETHER WITH A COPY OF ANOTHER WRIT PETITION FILED ON THE SAME SUBJECT HAS NOT BEEN RECEIVED EVEN BY THE EVENING OF 28TH JULY 1993 EVEN THOUGH THESE PAPERS WERE SUPPOSED TO BE RECEIVED EITHER ON 26TH OR 27TH JULY 1993(.) REQUEST DESPATCH THE COUNTER AFFIDAVIT AND COPY OF THE PETITION REFERRED TO ABOVE BY SPEED POST WITHOUT ANY FURTHER LOSS OF TIME (.) ALSO CONFIRM WHETHER THE NEXT DATE OF HEARING AS COMMUNICATED BY SHRI BIJAN GHOSH IS 2ND AUGUST 1993(.) IF SO, ENSURE APPEARANCE ON BEHALF OF THE UNION OF INDIA AND SEEK EXTENSION FOR SUITABLE TIME FOR FILING COUNTER AFFIDAVIT ON BEHALF OF THE UNION OF INDIA(.)

HOME NEW DELHI --

N.T.T.

1 15741 SSUED

小下海, 頂 門門司

Under Secretary to the Govt. of India

M. Section M.H.A BY SPEED POST No.1/27/91-Public

Dated: 28-7-1993.

Copy by post in confirmation to Shri S.K. Kundu, Central Govt. Advocate, Branch Secretariat, Ministry of Law, Justice & Company Affairs, K.S. Roy Road, Calcutta-1, with the request that the required information may be sent to this Ministry at the earliest.

oc (V.P. Bhatia)

Under Secretary to the Govt. of India

**+SUBHASH** 

2034 No. 15/B/Home/93 Lit.III/600 Government of India Ministry of Law and Justice Department of Legal Affairs Branch Secretariat (820gm) 93 4, K.S. RoyRoad Calcutta - 700 001 Dated the 27th July 1993. Shri L.B. Sinate Director Ministry of Home Affairs Government of India North Block New Delhi : 110 001. (W) of 1992 C.O. NO. Bijan Kumar Ghosh Union of India 709 93 Juhi Sir, Enclosed please find herewith i) copy of the Affidavit on behalf of added respondent, Sunil Krishna (hosh, 1i) application for added as party, iii) application for ad interim order of injunction and supplementary Affidavit of the petitioner. You are requested to furnish us with the instruction on the basis of the said documents and comments on the supplementary Affidavit of the petitioner for re-drafting of the Affidavit-in-Opposition or depute a competent person of your department with instructions and documents at an early date. Thanking you. Copy to:
Shri Amitava Ditta, Advocate,
Bar Association (Room No. 7), High Court Calcutta.

To hear harming and the contract of Yours faithfully. Jr. Central Govt. Advocate Jr. Central Govt. Advocate

#### DISTRICT : CALCUTTA

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction,

(Appelate Side)

#### IN THE MATTER OF :

An application under Article 226 of the Constitution of India;

AND

#### IN THE MATTER OF :

A Writ in the nature of Mandamus

AND

# IN THE MATTER OF :

A Writ in the nature of Certiorary;

AND

#### IN THE MATTER OF :

Any other Writ and/or writs, order and/or orders, direction and/or directions;

AND

# IN THE MATTER OF :

The highest Civilian Award 'Sharat Ratna' conferred upon Subhas Chandra Bose posthumously without having any

official ...

official declaration by Union of India of His death and/or admission of His death ;

# AND

#### IN THE MATTER OF :

A direction upon the Union of India to declare post-facto the death of Subhas Chandra Bose :

#### AND

#### IN THE MATTER OF

'Right to Know' is an extention of Fundamental Rights;

#### AND

## IN THE MATTER OF :

Bijan Ghosh, Advocate

practising at High Court at Calcutta

son of Sri Benoy Krishna Ghosh,

B-172, B. E. College, Howrah-2

... PETITIONER

#### - VERSUS -

- 1. The Union of India, represented through the Secretary, Ministry of Home Affairs, New Delhi-1.
- 2. The Union of India,

  Service through the Secretary,

  Ministry of Human Resources and

  Development Department, New Delhi-1.

  ... RESPONDENTS.

# SUNIL KRISHNA G UPTA

I, Sunil Krishna Gupta (alias Sunil Gupta) son of
Late Tripura Krishna Gupta, aged about 66 years, by occupation social worker, having address at 38, Vidyasagar Street,
Calcutta-700009, do hereby solemnly affirm and asay as
follows:-

- 1. That I have been added as a respondent in the Writ petition filed by Shri Bijan Kumar Chose, an advocate practising in the High Court at Calcutta.
- 2, I have read a copy of the said writ petition affirmed by an affidavit by Sri Bijan Kumar Ghosh on 18th January, 1993 (hereinafter referred to as 'the said petition') and have understood the contents and purport thereof.
- Netaji Inquiry Commission (1970), headed by Justice G.D.

  Khosla, on behalf of Late Suresh Chandra Bose (elder brother of Netaji), the National Committee and the All India Forward Block. I went to Japan and Formosa with the commission and also visited almost all the places of India where the sittings of the commission were held. And as such, I had opportunities to go through the evidence adduced and the documents produced before Mr. Justice Khosla. As a result, I am well conversant with the facts and documents placed before the Netaji Inquiry Commission (1970).
- 4. I say that I support the contentions and/or allegations made by the Writ petitioner in the said writ petition

and in addition to the submissions made by the writ petitioner, I like to add some relevant facts and points of law which are relevant for determination of the issues concerned.

- I say that the Central Government by bestowing the Award of Bharat Ratna, posthumously, on Netaji Subhas Chandra Bose, have acted unconstitutionally and such action is ultravires the Constitution of India in view of the Article 18 of the Constitution of India.
- 6. It is stated that Article 18(1) of the Constitution of India states: "No title, not being a military or academic distinction, shall be conferred by the State".
- 7. It is stated that the title of Sharat Ratna is neither a military nor an academic distinction and as such it should not have been bestowed on Netaji Subhas Chandra Bose.
- 8. It is stated that such unconstitutional act has been done to dishonour Netaji Subhas Chandra Bose and as such, the action itself being unconstitutional is liable to be set aside by this Hon'ble Court.
- 9. Without waiving the aforesaid objection but fully relying on the same, in order to apprise the Hon'ble Court of the fact-situation by which Netaji Subhas Chandra Bose has been sought to be denegrated in the eye of public, I state as follows:-

(a) The recent bestowal of 'Sharat Ratna' on Netaji Subhas Chandra Bose is indicative of an utter disregard for the promethean role of this great leader in India's freedom movement. Netaji was the man of destiny at a crucial hour of our freedom struggle. His outstanding leadership turned a fragmented and demoralised military force into a formidable army imbued with the sprit of nationalism. Indian National Army (INA) led by Netaji waged a battle that shattered the very foundation of the British Raj. This is history. When Lord Attles visited India as a private citizen after transfer of power, he was asked by the then acting Governor of West Bengal, Mr. Phani Bhusan Chakraborty, the Chief Justice of Calcutta High Court, at Calcutta - "why the British left India after their victory inthe War ?" The former Prime Minister of U.K., who piloted the Indian Independence Bill in the House of Commons replied, - "it was because of Subhas Bose".

Ramesh Chandra Majumder, eminent and greatest historian of his age, referred to such discussion in his BANGLA DESHER ITIHAS, Vol. IV.

- (b) In his relentless struggle against the British
  Raj Netaji Subhas never took the path of least resistance and
  his non-conformist attitude has earned him a name synonimous
  with revolution both at home and abroad. The way he resigned
  from the post of the President (Rastrapati) of Indian
  National Congress prompted Rabindranath Tagore to address
  him as DESHANAYAK (leader of the Nation).
- (c) His immense popularity among all sections of the masses, his capacity to inculcate into our minds a feeling

that we could fight for our freedom-all put together makes him a unique leader the like of which is yet to be born in our country. This is also borne out by his exemplary acts of sacrifice and accurate assessment of domestic and international situation. Above all, it is accepted on all hands that the name Netaji strikes terror into the hearts of the imperialist powers.

- (d) Thus, it deludes one quite justifiably as to why Bharat Ratna has been awarded to a leader who is unmatched in his heroic deeds and sacrifice in our country. The injustice done in the bestowal of such a title would seem all the more glaring if we look into the statements made by the historians, litterateurs and statesman, both at home and abroad.
- Netaji's personality. In their curiosity to understand the secret of the essential character of the mysterious Netaji, the Japanese Government engaged a few Officers to make a secret evaluation of the personality of Netaji. One such Officer, Major Taka Hashi, in reporting to his Government said:

"The Indian leader appeared to me to be a SUPERMAN.

During the three weeks of an inspection tour, we had to replace three A.D.Cs. They were all overcome with exhaustion. Subhas Chandra Bose worked 20 hours of thed ay without rest, meeting local Indians and inspecting troops and facilities. No normal person could share his work load".

In his book, 'Japan and Her Destiny', Mamoru
Shigemitsm, the then Foreign Minister of Japan, described
how deeply the delegates at the Greater East Asia Assembly
were moved by the address of Netaji: "His participation and
his speech intruth were the essence of the Great East Asia
Conference". Mr. Shigemitsm, assessment was "He (Netaji)
was the greatest Asiatic Hero of his time".

12. The Japanese General Kawabe said : "As an Organiser and inspirer of a revolutionary army, as an astute strategician and a planner of military operation and manouverability - any nation should feel proud of Chandra Bose".

General Kawabe further added: "The unique character of Netaji's military leadership ad the Supreme Commander of the INA, his magnetic inspiration in infusing dignity, discipline and dountless patriotism in his Army, his paramount control over his Army during attack or retreat, his innovation of revolutionary battle cries, his electrifying 'Order of the Days' and all other gallant fighting feats in leading the INA manifestly showed that India should not only feel proud in Netaji Chandra Bose, but hail him as the greatest revolutionary and greatest Military General of modern India".

South East Asia during 1942-46, Dr. Jose P. Laurel, the President of Phillipines and who was known as father of Phillipines, as an elder statesman of the Forum of Geneva League of Nations, who met almost all the Statesman of the world at that time except Stalin, said: "Of all the greatmen I have ever met Chandra Bose was the greatest".

14. After the Second World War, Tunku Abdur Rahaman, the then Prime Minister of Malayasia, when passing through Dum Dum Air Port enroute New Delhi, in reply to questions of the Press Reporters about Netaji Subhas Chandra Bose, said: "He raised us from dust".

Such innumerable comments of Saints, Philosophers, litterateurs, Statesman on Netaji Subhas Chandra Bose in this respect, can be cited. But to make the affidavit short I refrain from mentioning those comments at this stage.

of the IN.A. has spell on us. Netaji's name is one to conjure with (I use the present tense intentionally). His bravery shines through all his action". Gandhiji further said: Netaji is the "Patriot of Patriots, Prince of patriots".

- 16. Sreemati Sarojini Naidu referred to Netaji as:
  "The Flaming Sword of India". She further said: "With an implacable passion for liberty whose intrepid courage and remarkable gift of initiative, imagination, organisation and leadership found fullest expression in his (Netaji's) memorable campaign for Independence of India".
- 17. Sarbapalli Radhakrishnon, former President of India, in his assessment on Netaji expressed : His (Netaji's) fearlass courage, his reckless abandon, his suffering and sacrifice have become a part of the legendary story of India's struggle for freedom. Future generation will read the amazing story of his life with pride and reverence".

18. Dr. Pattabhi Sitaramiya, who contested the Congress Presidentship against Subhas Chandra in Tripuri in assessing the revolutionary character of Netaji said : "..... a strategist, a Warrior, a commander of forces, a rebel and revolutionary and at last a mystery man whose whereabouts are unknown, who is nevertheless today adored as the hero in hiding ..... Dr. Pallabhi further said : "..... the IN.A. brought to light the hiden facts of this great adventure in modern history and revealed the real man in the mystic, the brave soldier in the civilian, the genuine revolutionary in the administrator. That Subhas's colleagues did not share his principles and policies could not detract for the glory of his adventure ...... unprecedented in character. colossal in magnitude and stupendous in achievement". Dr. Sitaramiya continued : "Subhas has proved to the world that Hindustan is still a land of valour and prowess, that India has still in him that sense of national honour for preservation and perpetuation .... Subhas may be alive or dead in body, but his spirit, his name will endure long, yea for ever in history .....".

- 19. Rafi Ahmed Kidowai told: "To day he (Netaji) is a national hero. Every one points to him and his activities with emotion and pride. If he is alive and ever returns to his country, he will receive a welcome no one inthe country has referved so far".
- Minister of India and who belong to the anti Subhas Camp, said about Netaji's chafisma: "If Subhas Bose could come back to India after the war, he would have become all in all. There would have no Nehru, none from his family. Subhas Babu would have become the man of destiny of India".

20. Prof. K. K. Ghosh of Jadavpur University after a thorough research work on I.N.A. in India and abroad, remarked in the "PREFACE" of his book 'Indian National Army':

21. A Saint, a Seer, a Philosopher who was respected by all at that time, Sadhu T. L. Bhaswami Wrote: "I know not why, but around me I hear again and again a great noise: Is it the noise of a crumbling World the noise of a 'Chaos', a 'revolution' to be? And as though from the very centre of the 'noise' a voice is calling: Here Ye children of the Sages of the East! India is re-arising, radiant with light and aflame with freedom, to give her message to the Nations! And in this New Day that is downing Subhas will, I believe be greeted by millions of men and women as indeed a Patriot and a Phrophet of Resistance and Revolution".

22. R. Venkataraman, outgoing President of India, in a written message from New Delhi, dated September 23, 1987 said: "Netaji Brighter than a thousand stars, effulgent as a Sun and Powerfull as a tempest he kindled the fire of patriotism and hope. He was a born leader who inspired

both affection and awe at the same time. ..... Having entered the mainstream of the National Movement, Netaji strengthened it immeasurably, appealing to the patriotic instincts of all Indians, irrespective of language, province or religion.

".... Young and old, elite or lumpen, they were drawn to him as by a magnet. Very soon it became hard to say if destiny had found in Netaji Subhas Chandra Bose its supreme instrument or whether Netaji had bent destiny to his will. A hero of heroes to India and a terror or terrors to the alien Yoke, Netaji's career has imprinted itself on the national psyche".

Mr. Venketeramen has further said: "Netaji's disappearance from the seems, too, followed the course of meteors. A permanent void now remains where once there was a great effulgence. And yet Netaji constitutes a living reality which has nothing to do with his corporeal presence. He inspires us to give of our best to the nation, to its units and to the greatness which is its due".

As early as 1942, Netaji Knew that Allies would be winning. In the autumn of 1942, he told German Admiral Canaris, "You know as well as I do that Germany cannot win this war. But this time victorious Britain will loose India". According to Government counsel of the Netaji Inquiry Commission (1970), late T. R. Bhasin: "Such was his (Netaji's) assessment of the situation at home and abroad, and how correct".

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24. That none has yet accepted the said title on behalf of Netaji is indicative of the fact that the nation has rejected it. The members of his family have refused to accept it to condemn such blasphemous act to belittle the image of the great leader.

A Committee for organising a Citizens' convention 25. in protest against the posthumus award of 'Bharat Ratna' to Netaji was formed at Calcutta under the presidentship of Dr. Triguna Sen, Ex-Minister of Central Cabinet and renowned widely respected educationist, with Dr. Bhabatosh Dutta, eminent economist, Dr. Sushil Kumar Hukhopadhyay, ex-Vice Chancellor, Calcutta University, Dr. Monindra Mohon Chakraborty, Ex-Vice Chancellor Jadavour University, Dr. Arabinda Basu, Ex-Vice Chancellor Jadavpur University, Dr. Purnendu Kumar Basu, Ex-Pro Vice Chancellor, Dr. D. Basu, Ex-President, Asiatic Society, Prof. Nishit Ranjan Roy, Prof. Sankari Prasad Basu, Prof. Amiya Kumar Mazumdar, Dr. Chintamoni Kar, Sri Dwijeadralal Sen Gupta as Ex. H.P. and a Senior Advocate, Supreme Court, Sreemati Bani Roy, Sreemati Renuka Roy, Prof. Rudlof Rodricks, Dr. Dwijesh Dutta Mazumder, Sarbashree Panchanan Chakraborty, Ex-Revolutionery, Rajani Kanta Mishra, Prof. Bishnukanta Shastri, Prof. Asim Dutta, Prof. Asim Ghosh, Sarbashree Pannalal Das Gupta, X Sabitabrata Dutta, Capt. Dr. Bipul Sarkar, (INA), Capt. Nani Roy Bardhan, Sree Ashoknath Bose (Netaji's Nephew) Prof. Hosenur Rahman, Prof. Jahanara Begum, Prof. Gouri Ayub, Dr. Amin Ahmed, Ataul Nabi Hashni, amongst others.

26. A Citizens' covention was held under the anspices of the said Committee at Calcutta University Centenary Hall

on 22nd February, 1992 at 4 P.M. under the Presidentship of Dr. Monindra Mohon Chakraborty, Ex-Vice Chancellor, Jadavpur University, In a packed Hall a resolution was passed in that convention of the citizens' of West Bengal with following three specific demands among others:

- (1) "Let the Govt. of Shri Narasimha Rao, withdraw the illeonceived blasphemous and historically and philosophically unbefitting award of 'Bharat Ratna' bestowed on Netaji Subhas Chandra Bose".
- (ii) "..... this convention urges the Govt. to
  form a High Level Expert Committee to undertake
  a comprehensive inquiry into the matter as
  proposed after fixing the parameter procedure and
  modality of such Investigative Inquiry in
  consultation with persons who will be helpful to
  furnish necessary information in this matter and
  submit its report to the Govt. in due course.
- (iv) "Let the Govt. of India start a Government to Government negotiation with the new Govt. of Russian Federation for disclosing all documents, reports and facts which were in possession of the former K.G.B. and other sources of the former Govt. of USSR. Besides, the new Govt. of Russian Federation, the Govt. of U.K., USA, CHINA, GERMANY and TAIWAN may also be requested to furnish relevant materials relating to the reported disappearance of Netaji Subbas Chandra Bose".

27. It is further stated that Govt. of India should be compelled to take up the thread of 'Investigative Inquiry' as has already been announced by the Chandra Sekhar Government, in March, 1991 to complete a High Level probe by an 'Expert Committee' into all nationally and internationally available documents, reports, facts, etc. regarding the issue of disappearance of Netaji Subhas Chandra Bose after August 17, 1945.

28. The posthumous bestowal of Sharat Ratna on Netaji seems to be an effort to instill into the minds of the people of our country that Netaji had died as a result of an Aircrash, on 18th August, 1945, at Taihoku. It deludes one as to why the Government of India is making such an effort, when the mystery of Netaji's disappearance has not yet been solved. Nor is the so called plane-crash story founded upon any incontrovertible evidence whatsoever.

I say that adverse reaction of the people and the news media of the country over posthumous bestowal of 'Bharat Ratna' on Netaji Subhas Chandra Bose, has been amply ventilated through innumerable letters to the editor, and some articles published in the News Papers in India, especially at Calcutta.

Xerox copies of two such articles published in Bartaman and Ananda Bazar Patrika are annexed hereto and collectively marked with the letter "A"

30. The mightiest revolutionary plunged himself in total abandon, oblivious of all consequences about himself,

to create an epoch-making legend of the Indian Revolution.

The Government made no worthwhile effort to knew that really happened to such a man. Could India achieve independence, - could the independence of the whole sub-continent, - so soon after the victory of the British Power in the Second World War had not its citadel been blasted by the AZAD HIND REVOLUTION led by Netaji?

- 31. Since 1857 such a revolutionary convulsion had never been happened in India, and never before the people and the Army moved together to fight for Indian Independence. It was the last and the greatest occasion when the Hindus, the Muslims, the Sikhs, the Christians, the people of all communities from all corners of India forged a revolutionary unity of unprecedented dimension for fighting unitedly for their freedom under the inspiration of the legends of Netaji and his INN.A.
- Chandra Bose worte to Pandit Nehru, the then Prime Minister of India: "It is considered important by me on behalf of the committee to know whether the name of Netaji Subhas Chandra Bose was and still is in the list of War Criminals drawn up by America and her Allies. If his name still exists and if they request the Government of India to hand him over to them, if he be found on India soil, for being tried as a War Criminal whether this Government will have the opinion of handing or not handing him over to them for the aforesaid purpose".

Pandit Nehru was conspicuous in not replying to the said letter of Late Suresh Chandra Bose.

then Deputy Chairman, All India Forward Bloc, in a Press
Conference at Parliament House New Delhi, declared - 'Five
years after the alleged death of Netaji Subhas Chandra Bose,
Shri Thevar met him in the year 1950 in China and lived with
Netaji for about (9) nine months". He further said, : "I
also renewed contact with Hetaji in February (1956) and I am
still maintaining contact with Netaji". He further said, "on the advice of Late Sarat Chandra Bose In went to China
incognito on 17th December, 1949. I went there without
Passport. Government of India was aware of the same".

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34. Shri Thevar appeared before the Netaji Inquiry
Committee (1956) on the 4th April, 1956. Shri Thevar
wanted to know from Shah Nawaz Khan, Chairman of the
Committee: "Whether Netaji is still a War Criminal, as per
declaration at the end of the Second World War and if he is
not, when and how the status changed"? In reply to the
aforesaid quarry of Shri Thevar, Mr. Shah Nawaz Khan replied:
"The Government of India is not in possession of any information on this point whether Netaji is a War Criminal or not.
This information lies with the U.K. and the U.S.A."

35. Shri Thewar again asked the Chairman: "Whether the then declaration made by the Allies in regard to War Criminals has nothing to do with this Government and if so, whether the Government of India would state categorically that the declaration in regard to War Criminals does not bind this Government?"

36. Shah Nawaz Khan's reply was : "The Government cannot issue categorical statement in regard to this question".

Simla in reply to questions of Press Reporters: But after the Japanese War, if Subhas were to come to India, Shri Nehru said, "it would be wrong to adopt any vindictive policy towards him. It was, however, a different matter as to under what condition he would be allowed to return to India".

38. On being fully conscious about the whereabouts of Netaji Subhas Chandra Bose, the then Indian leaders, especially Pandit Nehru, deliberately suppressed the facts and circumstances leading to his disappearance, out of vengeance and at the same time, for their political gain.

39. The alleged death of Netaji in a plane-crash on 18th August, 1945, is not believed by a large section of Indian Public in spite of the report of the majority of the members of the Netaji Inquiry Committee (1956), headed by Shah Nawaz Khan, Even the Prime Minister of India Late Shri Jawaharlal Meheru, had to admit in a letter, dated 13th May, 1962, written to late Suresh Chandra Bose, elder brother of Netaji, that there was no "precise and derect proof" of the death of Netaji. Late Shri Suresh Chandra Bose was a non-official member of Netaji Inquiry Committee (1956). He also submitted a 'Dissentient Report' and his observation was that Netaji did not die in that alleged plane-crash at Taihoku.

After coming to know the fact of Bose's escape, 40. the Wavell Government in Delhi in 1945, faced a serious dilemma regarding the course of their "treatment of Bose". They were confronted with many problems : Will they ask the country which kept Bose in secret custody to surrender him to the British Authority ? After getting Bose in their hands will they try and hang him ? Or, will they interim him either in India or in some remote island in the Indian Ocean ? The Home Member of the Viceroy's Executive Council. Sri Mudie, prepared a 'Nore' for Wavell incorporating various suggestions for "treatment of Bose". It was prepared on August 23, 1945, i.e., 5 days after the alleged death of Netaji. The Vicercy of India in 1945 approved this 'Note' and carried it to London for its final approval by the British Cabinet. The U.K. Cabinet, with Mr. Attlee in the chair, cleared this 'Note' on October 25, 1945, i.e. m 68 days after Netaji's elleged death. This 'Note' included various alternatives "regarding treatment of Bose" : namely to "(a), bring him back to India and try him either for waging war or under the Enemy Agents Ordinance; (b) have him tried by a Court in Burma or Malaya for waging war against the King in that country ; (c) have him tried by a military court outside India; (d) interm himin India; (e) interm him in some British possession i.e., Seychelles Islands".

41. After analysing the pros and cons of all these suggested measures to punish and execute or intern Bose, the 'Note' finally decided to :

LEAVE ...

"LEAVE HIM WHERE HE IS AND DON'T ASK FOR HIS SURRENDER ...... IN MANY WAYS THE WASIEST COURSE WOULD BE TO LEAVE HIM WHERE HE IS AND NOT ASK FOR HIS BELEASE. HE MIGHT, OF COURSE, IN CERTAIN CIRCUMSTANCES BE WELCOMED BY THE RUSSIANS. THIS COURSE WOULD RAISE FEWEST IMMEDIATE POLITICAL DIFFICULTIES".

and which had never been made accessible, are in the pessession of the USSR National Archives, according to Dr.

S. S. Yurlovs of the Soviet Institute of Oriental Studies, Moscow. These may now be made available to genuinely interested parties in view of the prevailing policy of Glasnost in the Soviet Union. — Hindusthan Times, New Delhi, March 5, 1990.7.

Merox copy of the relevant page of the Hindusthan Times is annexed hereto and marked with the letter "B".

A3. The last official stand taken by the office of the Prime Minister of India on the floor of Lok Sabha was on 3rd September, 1978, when Shri Morarji Desai stated: "Shah Nawaz Committee and Khosia Commission hold the report of Netaji Subhas Chandra Bose's death following a plane Crash as true. Since then reasonable doubts have been cast on the correctness in the two reports and various important contradictions in the testimony of the witnesses have been noticed. Some further contemporary official documentary records have also become available. In the light of these doubts and contradictions and those records, Government find it difficult to accept that the earlier conclusions are decisive".

In view of the facts stated and submission made herein before it is prayed that this Hon'ble Court will be pleased to direct the Government of India to withdraw the title of 'Bharat Batna' on Netaji Subhas Chandra Bose and will further be pleased to quash the decision of the Government of India to award the title of 'Sharat Ratna' on Netaji.

The statement made in paragraphs 9 to 26,29
32 to 37, 40 to 43
are my information derived from various Books, Newspapers, Periodicals, documents and sourses based on records, those made in paragraphs ..., 2 and 3 are true to my knowledge and those made in paragraphs 4 to 8, 27, 28, 30, 31, 38, 39 and 44 are my respectful submissions before this Hon'ble High Court.

Prepared in my office.

SHAdvocate.

Sdf- Sunil Krishue Buple

The deponent is known to me

5d/\_ Clerk to

Mrs. Archana Sen Gupta, Advocate.

Solemnly affirmed before me at the Court House at Calcutta this the !... day of March, 1998.

COMMISSIONER



৮ ম বর্ষ ৫৬ সংখ্যা শনিবার ১৮ মাঘ ১৩৯৮

## নেতাজি সুভাষচন্দ্রকে এই অসম্মান : ইতিহাস কি এদের ক্ষমা করবে ?

তাজি সূভাষচন্দ্র বসুকে কেন্দ্রীর সরকার
মরণোভর ভারতরাত্ব খেতাবে ভূষিত
করেছে। এই সংবাদ পাওয়ার পর মুখামত্ত্রী
জ্যোতি বসু যথারীতি মন্তব্য করেছেন: এতাদির
বানে কেন্দ্রের করেছেন সরকারের নেতাজিকে
ভারতরত্ব উপাবি পেওয়ার কথা মনে পড়েছে।
তবু আমরা বুশি। রাজনৈতিক কারণেই কর্মেস
নেতাজিকে যথাযথ সন্থান জানারনি।

নেতান্ধিকে ভারতরত্ব খেতাব দেওয়াঁটা উচিত হরেছে কি হরনি, তা নিরে আলোচনাটা আপাতত মুক্তবি থাক, শুধু প্রশ্ন বেখা দের, আগামী বছর যদি কেন্দ্রীর সরকার মহাস্থা গান্ধীকে ভারতরত্ব খেতাব দিয়ে বলে, তখনও কি মুখামন্ত্রী জ্যোতি বসু একই ধরনের মন্তব্য করে তৃপ্ত হবেন ৷ অর্থাৎ, একই সঙ্গে তিনি ক্যাডারদের খুলি করতে খন্ডাবনিদ্ধ ভঙ্গিতে কেন্দ্রীর সরকারের বিরুদ্ধে একটু কটাঙ্গ করবেন এবং কেন্দ্রীর সিদ্ধান্তকে খুলি মনে স্বাগত জ্ঞানাবেন— যাতে দিয়ির কর্তারাও সুশী হল।

কেন্দ্রীয় সরকার স্বাধীনতা লাভের ৪৫ বছর বাদে নেতাজিকে ভারতরত্ন উপাধি দিরে কত বড় অশোন্তন কাজ করেছে, তা নিয়ে কোনও সৃস্থ চিন্তের মানুবই ছিমত হবেন না। কোনও দেশপ্রেমিক মানুবই এই বিলম্বিত সিভান্তে জ্যোতি বসুর মতো পূলি হতে পারেন না। কারণ, নেতাজিকে বারা ভারতরত্ন দেওরার উদ্ধতা দেখাতে পারেন, ভারা যে মহান্ধ্য গান্ধীকেও একদিন ভারতরত্ন দিয়ে বসবেন না, তার গান্ধানি কোথায় ?

এসব প্রশ্নে যাওয়ার আণে একজন অধম বঙ্গ সম্ভান হিসেবে এই সাংবাদিকের মনে করেকটি ্ৰশ্ন দেখা দিয়েছে। নেতাজির প্রতি কেন্দ্রীয় সরকার বিমাতৃসূলভ ব্যবহার করেছে— এ বিষয়ে সংশয়ের কোনও অবকাশ নেই। বিদ্ধ এই বঙ্গরাজ্যের বর্তমান অবীশ্বর জ্যোতিবাবুরা নেতাজির প্রতি আভ পর্যন্ত ফতটুকু দ্রন্ধা প্রদর্শন করেছেন ? স্বাধীনতার ৩০ বছর বাদে জ্যোতিবাবুরা ভোট বাঙ্গের দিকে নজর রেখে নেতাজি সম্পর্কে নিজেদের দৃষ্টিভঙ্গির সামান্য পরিবর্তন করেছেন ঠিকই, কিছু আজও কি তারা নেতাজিকে যথাপঁই সন্মানের আসনে প্রতিষ্ঠিত করেছেন ৷ ভারতরত্ব দেওয়া দূরে থাক, নেতাজির প্রতিমৃতিতে একটি মালা দিতেই জ্যোতিবাবুর ৪৫ বছর পার হয়ে গেল। তিনি এ বছরই প্রথম নেতাজির গলায় মালা পরালেন— এর আগে অন্য কোনও ২৩ জানুয়ারির সরকারি অনুষ্ঠানে মালা হাতে জ্যোতিবাবুকে দেখা যায়নি। যে জ্যোতি বসু যুবভারতী ক্রীড়াগনে श्रीरमयी अवर मिठ्रेन ठक्रवर्डींत्र नाठ रमचात्र कना ঘণ্টার পর ঘণ্টা বসে থাকতে পারেন, তার পক্ষে নেতাজির গলায় মালা পরানোর মতো পাঁচ মিনিট সময় এতকাল ছিল না। অথচ, এরাই আবার কেন্দ্রীয় সরকারকে আসামীর কাঠগড়ায় পাড় করাবার জন্য অনায়াসেই দেতাজি-ভক্ত সেজে যেতে পারেন। আর নেতাঞ্জির অনুগামী বলে পরিচিত করওয়ার্ভ ব্লক শুধুই মান্ত্রীত্বের লোভে সেই জ্যোতিবালুদের ক্রীতদাসে খাজ ম্পান্তরিত।

### বিশেষ নিবন্ধ

#### প্রণবেশ চক্রবর্তী

তাই কেন্দ্রীয় সরকারের দুঃসহ স্পর্বার
বিক্রছে বাংলার সাধারণ মানুব বদি আজ
প্রতিবাদে মুখর হয়, যদি মুক্তকটে বিকার জানার,
তাহলে সেটাই হবে সুহতার লক্ষণ, কিছ তাই
বলে জ্যোতি বসু এবং তাদের সেবাদাসে পরিণত
ফরওয়ার্ড রক যদি আজ সভা বাঙালি
সেডিমেন্টে সুড়সুড়ি দেওয়ার মতলবে
নেতাজির জন্য দরসের দরিয়ায় তুফান তোলে,
তাহলে সেটা হবে এক হাস্যকর অপপ্রয়াস।

কেন্দ্রীয় সরকার ইতিপূর্বে ২৬ জনকে ভারতরত্ম দিয়েছে, যাদের মধ্যে মোরারঞি দেশাই, রাজীব গান্ধী এবং এম জি রামচন্দ্রনও व्याट्न । और २७ करनद भद्र २१ व्यथ्वा २৮ छम ভারতরত্ম প্রাণক হিসেবে এক ব্র্যাকেটে নেতাজি এবং মৌলানা আবুল কালাম আজাদের নাম বোবিত হয়েছে। প্রয়াত আবুল কালাম আজাদ একজন সৎ, নিষ্ঠাবান এবং দেশপ্রেমিক দেশনেতা ছিলেন। তাকে দেরিতে ছলেও ভারতরত্ম দেওয়াটা নিশ্চয়ই অভিনন্দন যোগ্য। কিছ তাই বলে নেতাজি ৷ নেতাজির সঙ্গে এক সাবিতে তিনটি নামকেই উচ্চারণ করা যায়---সেই তিনটি নাম হছে, গাৰীজি, নেতাজি এবং त्मदक्रकि । এই ठिनकत्मत्र मध्य त्मदक्रकि वाधीन ভারতে দীর্ঘকাল প্রধানমন্ত্রী ছিলেন এবং খেতাব विख्तन करत हैररतक्षामत व्हीनालहे अकमन বশংবদ তৈরি করার পছাটি তিনিই আবিষ্কার করেছিলেন। অর্থাৎ, স্বাধীন ভারতে যখন খেতাব বর্জন করাটাই ছিল সব থেকে বেলি কামা, ইংরেজ আমলের সেই 'রায়সাহের', 'রায়বাহাদুর' থা 'স্যারে'র বিকল্প তৈরি করাটা যখন ছিল সব থেকে অপ্রার্থিত, তখন নেহন্তক্তি ব্রিটিশ কায়দায় এই অভড পদ্ধতিটিকে ভারতীর রাই ব্যবস্থার ঘাড়ে চাপিয়ে দিলেন। আর তারই পরিণামে গঙ্গান্ধলে গঙ্গা পূজা করার মতো তাঁকেই যদি 'ভারতন্ত্র' দিয়ে সর্বোচ্চ খেতাবে ভৃষিত করা হয়ে থাকে, তাহলে তাতে আপন্তির কোনও কারণ থাকতে পারে না।

কিছু তাই বলে গান্ধীক্তি এবং নেতাক্তি ।
তাদের অমর আসন ভারতের কোটি কোটি
মানুবের মনে। ফতদিন সিছু-গঙ্গা-রক্ষপুর
প্রবাহিত হবে, ততদিনই ভারত ইতিহাসে এই
দু'জনের নাম বর্গাক্ষরে দেখা থাকবে। এদের
খেতাব দেবে কে । কী খেতাব দেবে । সবই যে
তাদের কাছে পথের ধূলা। কী মূল্য আছে তার ।
যে খেতাবে ইতিমধাই ২৫ জন ভ্বিত হয়েছেন,
সেই খেতাবের তালিকায় এতদিন পরে এভাবে
নেতান্থির নাম যুক্ত করার এই ছ্ণ্য অপপ্রয়াসের
কোনও ক্ষমা নেই।

এই খেতাবের সঙ্গে জড়িত হয়েছে আরেকটি অসাধু উদ্যোগ। নেতান্ধি সুভাষচক্রকে 'মরশেন্তর' ভারতরত্ন দেওয়া হয়েছে। এভাবে নেতাজিকে 'মৃত' ঘোষণার অধিকার কেন্দ্রীর সরকারকে কে দিয়েছে? বয়ং জওহরলাল নেহল বা গান্ধীজিও কোনও দিন নেতাজির মৃত্যু সম্পর্ক কোনও মুক্তিগ্রাহ্য প্রমাণ দাখিল করতে পারেননি। বরং এ ব্যাপারে সংলব প্রকাশ করেছিলেন। মোরারজি দেলাই যথন ভারতের প্রধানমন্ত্রী, তখন তিনি ঘোষণা করেছিলেন, নেতাজির মৃত্যু রহস্য নিয়ে তদত্তের জন্য যে দু'টি সরকারি কমিশন গঠন করা হয়েছিল (শাহনওয়াজ ও ঘোসলা কমিশন), সেই দু'টি কমিশনের রিপোর্ট আলৌ গ্রহণযোগ্য নম্ন।

এই যেখানে পরিস্থিতি, সেখানে দেশের বর্তমান রাষ্ট্রপতি বা প্রধানমন্ত্রী এতাবে নেতাজিকে 'মরণোশুর' খেতার দেশুরার প্রহ্মনর কান করে নেতাজিকে কীতাবে মৃত বলে ঘোষণা করলেন ? এটাও কি কাকটা সূচতুর হীনকৌশল নয় ? বাঙালি আন্ধ হীবতায় আক্রান্থ সুবিধারাদী জ্যোতিবাবুরা এখন বাঙালির ঠিকাদারী নিয়ে বসে আছেন, আর সেইজনাই কেন্দ্রীয় সরকার এরকম একটা দুমেহ শর্পাদেখাবার সাহস পেল। বস সন্তানরা কি তব্ত নাকে তেল দিয়ে য়াজনীতির পঞ্জিল শ্ব্যাতে মরণ যুমেই যুমিয়ে থাকবেন ?

তথু কেন্দ্রীয় সরকারই নত্ত, এই রাজ্যের বর্তমান কর্ণধাররাও নেতাজির প্রতি কোনওদিন কোনও সন্মান দেখাননি, প্রায়ন্তিত্ত করেননি নিজেদের কুকীর্তির। ইদানীং ২৩ জালুমারি নেতাজির প্রেমে থারা ফুলের মালা গালায় পরিয়ে গদগদ হয়ে ওঠেন, কী তাদের আসল পরিচয় ? আজকের নতুন প্রজন্ম কি স্মরণে রেখেছে সেই কলভিত ইতিহাস ?

ভারত-পথিক নেতাজি সুভাবচন্দ্র সেই ৰিতীয় বিশ্বযুক্তের অগ্নিগঠ দিনগুলিতে যখন আজাদ হিন্দ বাহিনীকে নিয়ে বীরের মতো মাথা উচু করে এগিয়ে আসছিলেন ভারতের দিকে, সেদিন এ দেশের কমিউনিস্টরা কী ভূমিকা গ্রহণ করেছিলেন ? সেদিন তাদের কাছে সোভিয়েত রাশিয়ার স্বার্থ ছিল সকলের আগে, প্রয়োজনে ভারতের স্বার্থকেও ভারা পদদলিত করেছেন, যতদিন জার্মান-কল মৈত্রী অভূপ ছিল, ততদিন তারা ছিলেন ব্রিটিশ রাজের বিরুদ্ধে, কিন্তু বে-ই कार्मानि चाक्रमन कत्रन त्रानिद्यात्क, चमनि ब দেশীয় কমিউনিস্টরা হয়ে গেলেন দারুণ ইংরেজ कर अवर हरतारका बारबी विचयुक कारना কাছে হয়ে গেল জনযুক। তারা তথন ইংরেজের বিশ্বন্ত দোসর, ইংরেজের অনুচর এবং স্বাধীনতা আন্দোলন তথা আজাদ হিন্দ বাহিনীর চরম শক্ত। ভাই সেদিন ভারা নেতাজিকে কুইসলিং বা বিশাসঘাতক আখ্যা দিতেও কসুর করেননি, নেতাজিকে জাপানি প্রধানমন্ত্রী তোজোর কুকুর বলে প্রচার করতেও শক্তিত হননি। সেদিনের সেই জ্যোতিবাবুরাই আন্ধ এই রাজ্যের কর্ণধার। কিছু তারা কি সেদিনের সেই ভয়ন্তর পাপের কোনও প্রায়ন্ডিন্ত করেছেন, নেতাজির সামনে নতজানু হয়ে কি কোনওদিন ক্ষমা প্রার্থনা क्रिक्स १

ইতিহাস কি এই কুলালারদের ক্ষমা করতে পারে ?

# আনন্দবাজার পত্রিকা

# 'ভারতরত্ন' খেতাব নেতাজির অসম্মান, সরকার এই খেতাব প্রত্যাহার করুন

সুনীত ঘোষ

প্রায় তিরিশ বছর আগের কথা হলেও ঘটনাটি এখনও বেশ মনে আছে। নেতাভি অন্তর্ধানের রহস্য খুঁছে বের করার জন্য নিযুক্ত খোসলা কমিশনের শুনানি হচ্ছিল পুরীতে। এই পত্রিকার হয়ে সেখানে গিয়েছিলাম রিপোর্ট করার জন্য। সাঞ্চীদের মধ্যে ছিলেন ভঃ রামচন্দ্র রাও নামে এক ছেলের কয়েদি। খৌছ করে জানতে পারি, ডঃ রাও আজাদ হিন্দ ফৌল্লে চিকিৎসকের কাজ করতেন। নেতাজির প্রতি তার শ্রদ্ধা অপরিসীম। তার বক্তব্য অনুযায়ী।, বেশ কয়েক বছর আগে নেতাজি সংক্রান্ত কিছু কাগজপত্র ও ছবি নিয়ে ভারতে এসে, তিনি তার রাজ্য অন্তের মুখ্যমন্ত্রী সঞ্জীব রেডিডর সঙ্গে দেখা করেন। এবং সঞ্জীব রেডিডর পরামর্শমত বিজ্ পট্টনায়কের সঙ্গেও সাক্ষাৎ করে সবকিছু বলেন। এরা দুজনেই তখন প্রধানমন্ত্রী ছওহরলাল নেহরুর খুব কাছের মানুষ। নেহরুর সিংহাসন রক্ষার ছন্য এরা সবকিছু করতে প্রস্তুত ছিলেন। হঠাৎ একদিন সঞ্জীব রেডিড নাকি তার কাছ থেকে সব কাগজপত্র, ছবি চেয়ে নেন। পরে সেগুলি ফেরড দেওয়ার জন্য পীড়াপীড়ি করলে সঞ্জীব রেডিড ৪২০ নং ধারার একটা সাধারণ মামলায় ওকে ছড়িয়ে ভেলে পাঠিয়ে দেন। সেই থেকে একটার পর একটা মামলায় ছড়িয়ে ডঃ রাওকে আর জেলের বাইরে আসতে দেওয়া হয়নি। অস্তত খোসলা কমিশনের পুরী অধিবেশন পর্যন্ত ডঃ রাও জেলেই ছিলেন। পরবর্তী সংবাদ আমার জানা নেই।

সেদিন সাক্ষ্য দেওয়ার জন্য ডঃ রাওকে পুলিশের গাড়িতে করে শুনানি কক্ষে হাজির করতেই স্বভাবতই আমি কৌতৃহলী হয়েছিলাম। দুই তরফের উকিল এবং কমিশনের চেয়ারখ্যানের ভেরার উত্তরে ডঃ রাও অত্যন্ত সংলগ্ন বিশুদ্ধ ইংরেজিতে তাঁর জেলে যাওয়ার পশ্চাদপট বর্ণনা করে দাবি করেন, কমিশনের সামনে চার ব্যক্তিকে হাজির করা হোক এবং তাঁদের জেরা করতে দেওয়া ছোক ডঃ রাওকে। এই চারজন হলেন ডঃ সর্বপর্য়ী রাধাক্ষান, সঞ্জীব রেডিড, বিজু পট্টনায়ক এবং বিজয়লক্ষ্মী পণ্ডিত। ডঃ রাও যা বলেছিলেন, তার সারমর্ম হল, এই কজনকে জেরা করলেই নেতাজির অন্তর্ধান রহস্য বেরিয়ে পড়বে। হেঁয়ালির আশ্রয় না দিয়ে ডঃ রাও সেদিন যে কথা বলতে চেয়েছিলেন তা হল, নেতাভি দেশ স্বাধীন হওয়ার কিছু পরেই ভারতে ফেরার চেষ্টা করেছিলেন। জ্বওহরলাল নেহরু তা জানতেন। কিন্তু তাঁকে আর ফিরতে দেওয়া इग्रमि । यर्षार्.... ।

মনে আছে, পুরী থেকে ফিরে ভুবনেশ্বরে বিজু পট্টনায়কের কাছে ডঃ রাওয়ের কথা উত্থাপন করতেই বিজুবাবু তাঁর স্বভাবসিদ্ধ উন্নাসিকতার সঙ্গে বলেন, "Oh! that mad cap!" এ কথা থেকে পরিষ্কার হল যে, বিজ্বাবু ওই 'পাগলা'টাকে জানতেন। বিজ্বাবু জানলে সঞ্জীব রেডিডরও না জানার কথা নয়, কারণ ডঃ রাও ছিলেন অন্ধ্রবাসী। পরবর্তিকালে নানা সময়ে আমি বিভিন্ন দলের নেতার কাছে এই প্রসঙ্গ উত্থাপনের চেষ্টা করেছি। কিন্তু কেউ খুব একটা গুরুত্ব দেননি। খোসলা কমিশনের রিপোর্ট আমি পড়িনি। জানি না সাক্ষ্য সংক্রান্ত কাগজপত্রে ডঃ রাওয়ের কথা আদৌ আছে কি না ; থাকলে বিচারপতি খোসলা কোন যুক্তিতে সেগুলি অগ্রাহ্য করেছেন। কোনও রাজনৈতিক নেতা পুরো সাক্ষ্য খুঁটিয়ে পড়েছেন কি না সন্দেহ। তা ছাড়া নেতাঞ্জি-ভক্ত কোনও রাজনৈতিক দল একবার খোঁজ করার চেষ্টা করেননি ৪২০ নং ধারায় জড়িত একটি মানুষকে প্রায় দশ বছর জেলে রাখা সম্ভব হল কী করে; কেনই বা রাখা হল এবং এর পিছনে কোনও গভীর চক্রান্ত ছিল কি না। এতদিন পরে সেই লোকটিকে আর হয়তো খুঁজেই পাওয়া যাবে না। হয়তো বা জেলেই তাঁর মৃত্যু হয়েছে। তাঁর দাবি অনুযায়ী সঞ্জীব রেভিকে দেওয়া কাগন্ধপত্রের আর হদিশ পাওয়া যাবে না। বিজুবাবু যাঁকে 'পাগল' বলেছেন তাঁর আচরণ, সংলগ্ন ও সংবদ্ধ কথায় সেদিন আমি কোনও পাগলামির চিহ্ন খুঁজে পায়নি। সেদিন একজন সাক্ষীর অনুরোধে বিচারপতি খোসলা অনায়াসে সঞ্জীব রেডিড, বিজু পট্টনায়ক এবং বিজয়গন্ধী পণ্ডিতকে কমিশনের সামনে হাজির হওয়ার নির্দেশ দিতে পারতেন। কিন্তু তিনি তা করেননি। ব্যাপারটি পুরনো হলেও আবার তুলছি এই কারণে যে নেংগজির অন্তর্ধনি আজও রহস্যাবৃত।

এ অবস্থায় নরসিংহ রাও সরকার হঠাৎ নেতাজিকে মরণোত্তর 'ভারতরত্ব' দেওয়ার সিদ্ধান্ত নিলেন কেন ? কেন্দ্রীয় সরকার কি এতদিনে নেতাজির মৃত্যু সম্পর্কে নিশ্চিত, হয়েছেন १ তা হলে দেশের মানুষকে জানানো দরকার কবে এবং কোথায় মৃত্যু হয়েছে। এই রহস্য উদ্ধারের জন্য অতীতে দূ বার দৃটি লোক-দেখানো কমিশন নিযুক্ত হয়েছিল। একটি শা' নওয়াজ খানের নেতৃত্বে এবং অপরটি বিচারপতি খোসলার সভাপতিত্ব। আজ্ঞাদ হিন্দ ফৌজের যে टिनक्रनक्—मा' नएग्राक थान, সায়গল এবং ধीलन—लालक्क्यांग्र কিচার করা হয়েছিল তাদের মধ্যে শা' নওয়াক ক্ষমতার লোভে নেহরুর বশংবদ হয়ে কেন্দ্রের মন্ত্রী হয়েছিলেন। শা নওয়াঞ জানতেন নেহরুর স্বার্থে কী করা দরকার। লোকেও জানত শা নওয়াজ নেতাজির মৃত্যু সম্পর্কে শেষ পর্যন্ত কোনও সিদ্ধান্তে পৌছবেন। একইভাবে একাধিক কমিশনে পৌরোহিত্য করতে অভ্যস্ত বিচারপতি খোসলাও জানতেন তাঁর মুক্রবিব ইন্দিরা গাঞ্চী কী চান। নেতাজিকে মৃত বলে ঘোষণা করায় ইন্দিরা গান্ধী নিক্যই খুশি হয়েছিলেন, যদিও এই রিপোর্ট দেশবাসীর আস্থা অর্জন করেনি। বিশ্বাস করেননি মোরারজি দেশাই। তাঁর প্রধানমন্ত্রিত্ব কালে ১৯৭৮ সালে মোরারজি সংসদে শা' নওয়াজকে ও খোসলা কমিশনের রিপোর্ট বাতিল করে দিয়েছিলেন : কারণ ওই রিপোর্টের পরে নাকি এমন কিছু তথা সরকারের হাতে এসেছিল যা ওই রিপোর্টের বিশ্বাসযোগ্যতা নষ্ট করে দিয়েছে। তখন আবার দাবি



উঠেছিল নতুন এক কমিশন বসাবার। সে দাবিতে কর্ণপাত না করলেও মোরারজি সংসদ ভবনের সেণ্ট্রাল হলে নেতাজির প্রতিকৃতি রাখার ব্যবস্থা করে এই ছাতীয় নেতার প্রতি সম্মান জানান। অতীতে এই কাছটি করতেও নেহক এবং ইন্দিরা গান্ধী কৃষ্ঠিত

'নেতাজি মৃত' এ কথা তর্কের খাতিরে মেনে নিলেও স্বাধীনতার ৪৫ বছর পরে তাঁকে 'ভারতরত্ব' ঘোষণা করা একপ্রকার ধৃষ্টতা বই কি ! অযোগ্য । যারা এ কাঞ্চটি করেছেন তারা ভারতের স্বাধীনতা সংগ্রামে নেতাভির অবদান সম্পর্কে সমাক অবহিত নন। তারা এই সাদা সত্যটিকে এখনও স্বীকার করতে রাজি নন যে, গান্ধীর অহিংস সংগ্রামে দেশ স্বাধীন হয়নি। আর, যে আন্দোলন প্রকৃতই বিপ্লবের कुल निराहिन स्मर्डे विद्याद्विरमद यास्मालन कथन७ यहिश्म हिन ना । এরা স্বীকার করতে রাজি নন যে, গান্ধীর অহিংস আন্দোলন ব্রিটিশ শাসকদের বিব্রত করেছিল ঠিকই, কিন্তু ইংরেজদের হাড়ে কাঁপুনি ধরিয়েছিল নেতাজির আজাদ হিন্দ বাহিনী এবং পরে ভারতীয় নৌবাহিনীতে বিদ্রোহ। এই দৃটি ঘটনার পরেই ইংরেজ শাসকেরা বুঝেছিলেন যে দেশে সৈন্যবাহিনীতে চিড় ধরেছে সেখানে আর রাজত্ব করা সম্ভব নয়। অহিংস আন্দোলন ব্রিটিশ-বিরোধী প্রতিবাদের একমাত্র বহিঃপ্রকাশ হলে ইংরেজ শাসকেরা আরও কয়েক বছর বহাল তবিয়তে এদেশে থাকতে পারতেন। কংগ্রেস শাসকদের কৃপাধন্য সাংবাদিক ও বুদ্ধিজীবীরা নেহরুকে যতই 'মহামানব' বলে প্রমাণ করার চেষ্টা করুন না কেন, সতা হল নেতাজি হলেন গান্ধীর মতো এক 'যুগপুরুষ'। এক পথদ্রষ্টা। তুচ্ছ ক্ষমতার জনা আপন বিশ্বাস থেকে তিনি কখনও সরে যাননি, আপস করেননি নীতির সঙ্গে, যা করেছিলেন ঞওহরলাল। বিয়াল্লিশের আন্দোলনের পরে জেল থেকে বেরিয়ে নেহরু-প্যাটেলরা যখন ব্রিটিশ শাসকদের সঙ্গে শলা করে ক্ষমতা দখলের চক্রান্ত করেছিলেন তথন নেতাজি দেশের বাইরে ব্রিটিশ সাম্রাজ্ঞাবাদের সঙ্গে রক্তাক্ত সংগ্রামে লিপ্ত। বস্তুত এখনও গান্ধী, নেহরু ও নেতাজির অবদানের প্রকৃত মূল্যায়ন হয়নি। কিছু কিছু বিদেশি লেখক এই চেষ্টা করেছেন, কিন্তু তাঁদের লেখা অনেক বই ভারতে বাজেয়াপ্ত করা হয়েছে। যেমন মাইকেল এডওয়ার্ড লিখিত 'দি লাস্ট ইয়ার্স অব ব্রিটিশ ইন্ডিয়া'। আমার দৃঢ বিশ্বাস, যতদিন কংগ্রেস কেন্দ্রে ক্ষমতায় থাকবে ততদিন কোনও গবেষকের পক্ষে নেতাজির সঠিক মূল্যায়ন সম্ভব হবে না। কারণ গবেষণার জন্য আবশ্যক দলিলপত্র জাতীয় মহাফেজখানা কখনও थरन (पर्य ना।

অপ্রীতিকর হলেও বলা দরকার, তাঁর জীবিতকালে এবং অন্তর্ধানের পরে নেতাজ্জির সবচেয়ে বেশি অবমাননা করেছে কংগ্রেস। স্বাধীনতার আগে সূভাষচন্দ্র বসুকে জনসমক্ষে ছোট করে দেখাবার চেষ্টা করতেন গান্ধী ও তাঁর শিষ্যরা। আবার সেই কংগ্রেস নেতারাই ১৯৪৬ সালের নির্বাচনে জেতার জন্য আজাদ হিন্দ বাহিনীর তিন বন্দির বিচারকে রাজনৈতিক ইস্যু করতে লক্ষা বোধ করেনি। দেশ স্বাধীন হওয়ার পরেও অনেক বছর পর্যন্ত নেহরু সরকার নেতাজির উপর থেকে মিত্র বাহিনীর দেওয়া যুদ্ধ অপরাধীর কলম্ব অপনোদনের কোনও চেষ্টা করেনি। সাধারণ মানুষকে বিভ্রান্ত করার জন্য কোনও এক 'শৌলমারির সাধু'কে নিয়ে মাতামাতি

করতেও থিধা করেননি কংগ্রেসিরা।

নেতান্তি এক 'যুগপুরুষ',যাঁর নাম শুনলেই এখনও ভারতের কোটি কোটি মান্যের মন্তক শ্রদ্ধায় অবনত হয় ! সেই মান্যের মূল্য কি ভারতরত্ম দিয়ে মাপা যায় ? এই সরকারি সম্মান তো তাঁর মর্যাদা ১৯৭১ সালে, यथन প্রধানমন্ত্রী ইন্দিরা গান্ধী নিজেই নিজেকে ভারতরত্ব বলে ঘোষণা করেছেন। এর পর **থেকে** ভারতরত্ব দেওয়া হয়েছে নিছক রাজনৈতিক উদ্দেশ্যে। যে তালিকায় এম জি রামচন্দ্রন এবং রাজীব গান্ধীর নাম অগ্রাধিকার পার, সেখানে নেতাজির নাম ঢোকাবার চেষ্টা চরম ধৃষ্টতা।

এর বিরুদ্ধে সারা দেশে যে প্রতিবাদ উঠেছে তা খুবই সঙ্গত। নেহক-ইন্দিরা-রাজীব কোনও বিশেষ পরিবারের হলেও নেতাজি কোনও বিশেষ পরিবারের সম্পত্তি নন। কোনও কোনও মহলে নেতাজিকে একচেটিয়া করার প্রবণতা সর্বাংশে নিন্দার্হ। সূভাষচন্দ্র বসু নিশ্চয়ই কারও স্বামী, পিতা, খুড়া বা পিতামহ ছিলেন। কিন্তু 'নেতাঞ্জি'র স্থান সারা দেশের মানুষের অন্তরে। তাঁর সম্পর্কে দেশের মানুষের রায় মাপা পেতে নিতে হবে। এবং দেশের মানুষের রায় আজ পরিষ্কার। নরসিংহ রাও সরকার এই বিলম্বিত সম্মান প্রত্যাহার করে নিন। এই সম্মানের জন্য বিজ্ঞাপন দিলে লাইন পড়ে যাবে। ইন্দিরা-নেহরু পরিবারেও ভবিষাতে অনেক 'রত্ব' পাওয়া যাবে। খামোখা নেতাজ্বিকে নিয়ে টানাটানি কেন ? আর নরসিংহ রাও যদি প্রকৃতই কিছু জাতীয় কর্তব্য করতে চান তা হলে নেতান্ধির অন্তর্ধানের রহস্য সংক্রান্ত সত্য সন্ধানের জন্য নিরপেক্ষ তিনজন বিচারপতি দিয়ে আবার এক কমিশন গঠন করন। অন্তত দেশের মানুষ নরসিংহ রাওয়ের সততা ও আন্তরিকতা সম্পর্কে নিশ্চিত

# Secret papers on Netaji in USSR

CALCUTTA, March 4 (HTC)
The Soviet Government possesses
certain secret documents which may
shed new light on Netaji Subhas Chandra Bose.

Dr E. S. Yurlova of the Soviet Instiaute of Oriental Studies, Moscow, told HT here today that two Soviet scholars, who had been working on the Indian leader, had applied to the Government for permission to examine the documents. The documents were categorised as "top secret" and had never been made accessible. The scholars were however hopeful of the USSR National Archives agreeing to make available the documents in the context of the glasnost prevailing in the country.

The Soviet scholar said a seminar would be held in Moscow in September 1991 on Dr B. R. Ambedkar to mark his centenary. The seminar would be devoted to two main parts, Dr Ambedkar and the Indian national liberation movement, and Dr Ambedkar and the Scheduled Castes in post-Independence India.

"The advent of the Bahujan Samaj Party, with its leader Kanshi Ram breathing hatred, is a disturbing development for Indian democracy," she said. "It is surprising that the Left Government, now 65 years old in India, has failed to assimilate the Scheduled Castes. The Movement has in fact ignored the problems of the Scheduled Castes and this failure is now being exploited by leaders like Mr Ram."

Dr I. M. Semashko of the Soviet

Institute of Ethnography, USSR Academy of Sciences, Moscow, said cultural and physical anthropologists of the Institute had not come across any evidence of foreign involvement in the recent developments in the Asian ethnic republics of the USSR.

During their field studies the scholars however could feel rising discontentment among the ethnic population against the economic injustices being meted out to them. The consensus of the scholars was that the events which had been rocking the republics had emanated from the economic crisis in the USSR. The development of the Asian republics within the Soviet system had raised ethnic aspirations and as the Soviet economy began its downward slide during the last two decades. the people's aspirations increased bringing about an open and often vio-lent expression of dissatisfaction. The high unemployment rate also served to heighten the crisis. Nationalists who were ignored during the period of social and economic reconstruction found at last a niche for themselves and further ignited the violence

It was also widely felt that once the economic problems were tackled and the political reform programme undertaken under perestroika was completed, "all the ethnic problems would be solved."

She said that among the myriad changes occurring in the USSR, the Soviet Government's attitude to ethnography had also changed.

#### DISTRICT : CALCUTTA --

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction,

(Appellate Side)

#### IN THE MATTER OF :

An application under Article 226, of the Constitution of India.

AND

IN THE MATTER OF :

Bijon Chosh, Advocate,

.... PETITIONER.

- VERSUS -

The Union of India & Others.

.... RESPONDENTS

AFFIDAVIT

ON BEHALF OF THE ADDED RESPONDENT

SHRI ARUNAVA CHOSH, Advoc 1/B, Old Post Office Stre Room No. 3, Ground Floor GALCUTTA - 700 001.

#### DISTRICT : CALCUTTA.

IN THE HIGH COURT AT CALCUITA

Constitutional Writ Jurisdiction

Appellate Side

c.o. No. 6720 (W) of 1993.

#### In the matter of :

An application under Article 226 of the Constitution of India;

- And -

In the matter of:
Bijan Ghosh .... Petitioner.

- Versus -

Union of India and Another
... Respondents.

### Supplementary affidavit of the petitioner abovenamed

I, Bijan Chosh, son of Shri Benoy Krishna Chose, aged about 37 years, by occupation Advocate, practising at High Court, Calcutta, residing at B-172, B.E. Collehe, Howrah-3, do hereby solemnly affirm and say as follows:

I am the petitioner abovenamed and am fully conversant with the facts and circumstances of the case.

I am affirming this supplementary affidavit to place on record certain relevant facts and submissions relating to the subject contd...2.

matter of the pending writ application and crave leave of this Hon'ble Court that the same be allowed to be filed and treated as part of the writ application.

In the year 1956 i.e. after a period of 11 years 2. from the alleged air crash followed by the announcement of the Tokyyo Radio about Netaji's death by burning in that alleged accident, the Government of India appointed a Committee of Inquiry known as Skah Mayay Mhan Committee. in the wake of the decision by prominent citizens of India to set up a non- official inquiry committee with Dr. Raiha Inquery Committee Binode Pal as its Chairman. The Shah N as per its terms of reference, was to inquire into the circumstances concerning the departure of Netajh Subhas Chandra Bose from Bangkok about August 16, 1945, his alleged death as a result of alleged air crash accident and subsequent developments therewith. The finding of two members of the said Committee with which the third member, Suresh Chandra Bose differed in his dissentient report, was only in favour of a mere probability of the ashes kept in Renkoji temple at Tokyo being that of Netaji Subhas Chandra Bose.

3. In the year 1970, the Government of India again set up a one-man Judicial Commission sonsisting of Mr. G.D. Khosla, retired Chief Justice of the Punjab High Court, to enquire into the disappearance of Netaji Subhas Chandra Bose. Four years thereafter, the said Commission submitted its

report in June 1974 with the finding in favour of the alleged air crash at Taihoku on August 18p 1945 leading to Netaji's death after suffering from third degree burn injuries sustained by him in the said accident and cremation of his body two days thereafter at Taihoku in Formosa.

Netzy Inquiry The above report of Khasla Commission came into 4. serious criticism in public and the first edition of the book "Netaji - Dead or Alive ?" by Mr. Samar Guha (then a member of the Parliament) came out in the earlier part of 1978 containing an elaborate analysis of the evidence led before the said Commission and the findings of Mr. Khosla, besides reference to various official documents running contrary to such purported findings. The said book also Netwic Inquery bears reference to the proceedings before the Zhan Khan Committee and events, newspaper reports, intelligence reports etc., which came to be known years before the setting up of the said Committee by the Government of India. I will crave reference to the said book authored by Mr. Samar Guha at the time of hearing.

India, is reported to have made a statement in the Lok Sabha on September 3, 1978 to the effect that some contemporary records had been available and in the light of doubts and contradictions and those records, the Government found it difficult to accept that the earlier conclusions were

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decisive. While no particulars of the documents referred to by the Prime Minister were available in his reported statement, one may naturally look for some such documents, which became available after the submission of his report by Khosla Commission. These may include, as they seem to do, the secret documents published in the year 1976 by the British Government under the title "Transfer of Power 1942.

47", to which Mr. Samar Guha has made reference in his above.

mentioned book and has also quoted therefrom.

Your petitioner canve leave to refer the volume of Transfer of Power 1942-47

The text of the above statement of Mr. Morarji
Desai, as quoted in a compilation referred to hereinafter
was as follows:

"Shah Nawaz "ommittee and Khosla Commission hold the report of Netaji Subhas Chandra Bose's death following a plane crash as true. Since then reasonable doubts have been cast on the correctness in the two reports and various important contradictions in the testimoney of the witnesses have been noticed, Some further contemporary official documentary records have also become available. In the light of those doubts and contradiction and those records Government find it difficult to accept that the earlier conclusions are decisive".

7. No official announcement has been made thereafter on the question of Netaji's disappearance or death, nor has any fresh investigation been undertaken publicly to resolve the doubts from which the Government of India have apparently

-1 5 1-

been suffering after some contemporary records were available. Whether this official attitude is one of complete inaction to find out the truth or to withhold some truth cuntrary to what had been professed earlier looks a mystery.

Long years have passed in such a state of suspense leaving a general impression in the minds of the people that whether he be still alive or not, the fact that he did not die in the alleged plain crash at the fag and of the second world war is a foregone conclusion. What happened to Netaji in such circumstances is no doubt the real mystery, which is still agitating the public mind.

Government of India to make a "posthumous" award of "Bharat
Ratna" to Netaji Subhas Chandra Bose opened a floodgate of
contraversy centring round the question as to whether such a
belated award is at all desirable or honourable. No controversy appears to have been raised initially over the word
"posthumous" Nobody raised such questions as - " Are the makers
of the award certain about the factum of Netaji's death?

Notaji Inquiry

If so, on what basis - reported air crash? Shah Nawas Chan

Wolaji Inquiry

Committee's report? Woodla Commissioner's report? Or any
other undisclosed report about which the people of the country
have not been taken into confidence? ". Such question no
doubt came up immediately thereafter as the expression "
"posthumous" was sensitive enough to cause such mental reaction in the people's mind.

10. A citizen's convention was held on Pebruary 22, 1992 at the Calcutta University Centenary Hall to demand immediate withdrawal of the said posthumous award. As subsequently reported in the Calcutta newspapers the resolution adopted at the convention urged the Central Government to get in touch with the Russian Government and seek its help in unfolding the mystery behind the disappearance of Netaji. It further urged for a concerted move at the highest level of various foreign Governments in procuring authentic documents relating to the leader's disappearance.

resulution abviously owes its origin to certain stories current for sometime about Netaji's escape to Russia under the cover of a deception plan of announcement of his death in air crash on August 18, 1945 by Tokyo Radio five days thereafter and his having been held in captivity in that country. Mr. Satyanarain Sinha published a boom more than two decades ago containing such a story. Some facts about his possible escape to Soviet Russia have also been furnished in the abovementioned book by Mr. Samar Guha. The top secret documents seleased by the British Government contain some ingredients of belief in the minds of the British rulers about the possibility of Netaji's escape of to Russia under the cover of the air crash story circulated by Japan.

12. Contemporary newspaper reports indicate that the question of award of "Bharat Ratna" to Netaji was raised in the floor of the West Bengal Legislative Assembly and the Chief Minister of West Bengal as well as the then Leader of

of the opposition in the West Bengal Legislative Assembly conveyed their request to the President of India, who was then in Calcutta, to cancel the award. It was also reported in the press that Netaji's daughter had expressed her as well as her mother's unwillingness to assest accept the award because of the much belated evaluation of Netaji's contributions for the purpose of conferment of the said award. It is not known if the description of the award as posthumous is a point on which the above persons have taken any exception.

Nobody appears to have questioned directly the 13. legitimacy of the award being described as posthumous in the context of any concrete evidence of his death not yet being available, nor does there appear to be any positive demand for disclosure of the material facts on the basis whereof the Government of India has chosen to describe the said war award as posthumous. Keeping in view the above statement of Mr. Morarji, regarding the finding of the Government of India as to the indecisive nature of the earlier conclusions, (obviously meaning thereby the reports of Aban Rever Than Netwi Inquiry Committee and Marcha Commission) and the fact that there has been no further public investigation either on the question of Netaji's death or disappearance the expression "posthumously" used by the Government of India in relation to the conferment of the said award on Netaji certainly calls for an explanation as to the basis of use of such expression and

and in the context of what further findings, if any, the Government of India has chosen to describe the said award in se such terms. The people of this country has a right to know what ultimately happened to Netaji and since he is not being treated as deed by our Government, it is the bound duty of the Government of India to disclose full particulars of his alleged death and the source of information in that respect.

published recently Mr. Samar Guha has broadly relied on certain pieces of direct and indicrect evidence against the wir crash story and in support of the hypothesis about Netaji's escape to Sovieat Russia under the cover of the air crash story. Most of such evidence appear to be from official whether records referred to by him, which were wither placed before Netaji Inquiry the Shah Navaz Basa Committee or the Basas Commission or otherwise available. Such evidence include:

(a) The report submitted to Nehru in 1951
S.A. Tyer
by his emmissary, Mr. Dyen containing the version
of Colonel Tada, who had been entrusted by the
Japanese Chief of the S.E. Command at Saigon to
Plan and execute Netaji's escape to the Soviet
Union, the version of colonel Tada being as
follows:

When Japan surrendered, Terauchi took all responsibility to help Kaka Bose to reach Russian territory. It was arranged that " Chandra Bose"

would fly in a plane in which General Shedei
was going (who was put in charge of th "anchurian
Front after Russia declared war against Japan).
General Shedei was to look after Chandra Bose
uptoDairen and thereafter he could fall back on
his own resources to contact Russia and the plan
was to convey Bose to Manchuria.

- (b) A portion of Mountbatten's diary submitted
  Nebraic Inquiry
  Defore the Statisticana Committee containing reference to the report of the Director of Military
  Intelligence poste in Chiana about his supposition that Netaji was not in the plane that crashed.
- (c) A report by British Intelligence submitted to the Wavell Government in 1946 containing reference to a secret report to the effect that Nehru received a letter from Bose saying that he was in Russia and that he wanted to escape to India and Gandhiji and Sarat Chardra Bose were also aware of this.
- (d) The evidence before the Three Commission of Shyamlal Jain of Meerut, who was a Stenographer of Asaf Bli, about his having made four copies of a noted for Nehru on December 26, or 27, 1945 containing reference to Bose's arrival at Dairen on August 24, 1945 and his proceeding towards Russian territory is along with General Shedei and the jeep having returned after three hours as also about Nehru having sent a copy of the contd...10.

said note with his own comments to Prime Minister Attlee, which was also typed by him.

- (e) The report of British Intelligence to Lord
  Wavell about Pravada's denialy on January 7,
  1946 of Bose being in Russia and about a prior
  information given by the Russain Ambassador in
  Kabul to the Governor of an Afghan province that
  Bose was in Moscow.
- (f) Report of R.F. Mudie, the Home Member of Vicercy's Executive Council in 1945, suggesting to Lord Wavell to leave Bose where he was and not to ask for his release stating that he might, of course, be welcomed by the Russians. The said report was ultimately considered by the British Cabinet. This report is dated August 23, 1945 as per copy furnished at pages 3 to 6 of the above-mentioned book of Mr. Samar Guha, while the related proceedings of the British Cabinet dated October 25, 1945 is at pages 8 and 9 of the said book).
- (g) Gandhiji's repeated utterence in 1946 asserting his belief that Subhas who alive and his categorical statement to Colonel Habibur Rahman after the I.N.A. trial in 1946 that whatever the letter might be saying to the contrary he (Gandhiji) still believed in his heart of hearts that

Netaji Subhas Chandra Bose waa alive.

(h) In his statement in Lok Sabha on September 3, 1978, the then Prime Minister informed the House that in the light of doubts and centradictions and agailability of some contemporary records the Government of India found it difficult to accept that the earlier conclusions are decisive

(1) Information given to Mr. Morarji Desai as also to Mr. Guha by the great historian R.C.Majumdar that Dr. Radhakrishnan had informed his friend Saroj Das of Calcutta University that he had come to know that Bose had been kept in captigity in the U.S.S.R.

archives of Princeton University of a letter written by Khurshed Zen of Wardha Gandhi Ashram to Louis Fischer, American Journalist, requesting him to prevail upon the U.S. President for exerting pressure on the British Government to concede immediately freedon to India to avoid Bose's coming to India with the help of Russia, as in such an eventuality it would be difficult for Gandhiji as well as Congress to reason with the country in view of the Indian Army being at heart sympathetic with the Indian National Army.

Secretary of All India Forward Block circulated an appeal to the members of Parliament along with an Aide. Memoire to unravet the mystry of Netaji's disappearence urging upon them to prevail upon the Government of India to make an all out effort even at that stage to unravel the MYSTERY.

A copy of the comilation containing the said appeal and the Canada amongst the Member of Indiament on 25 [11] at said Aide. Memovie is annexed hereto and marked with the letter "A". The contents of the said annexure being based on contemporary records are believed by me to be true and correct and I crave leave to treat the same as part hereof.

The Respondent should be specifically directed 16. to produce such of the records as are in their possession out of the item listed under the caption " Chuesxie " Clues to Truth " at pages 45 to 48 of Annexure "A" hereto. In the exent the Respondents failed to produce any of those listed items they should be called upon to file an affidavit affirmed by an officer not below the rank of Secretary to the Government. to satisfy this Hon'ble Court if any of those documents, acre ever in their possession and if so what happened to them and why many of those listed items were not produced before Khosla Commission inspite of having been called upon to do so. If those documents are not produced before this Hon'ble Court and not satisfactory explanation is permit as to be whereabouts of those documents, it should be presumed that the same are being deliverately withheld to supress the truth in persuance of the malafide object of the Respondents to practice deception of the country men.

17. A perusal of the above Aide\_Memoire Containing a a beautiful analysis of the relevant date will commence any man of produce that all reports and findings of Netaji's alleged death are contrary to the weight of evidence and in any event there is nothing made public by the Government of India after the above statement of Mr. Morarji Desai on the floor of the Parliament on September 3, 1978 ever to suggest that Netaji met with natural death even thereaften, In the premises the Government of India has entrapped itself by desire being the said award as "posthumous" and it is answerable to this Hon'ble Court as to why such an expresion was used while announcing the said award. I call upon the respondents to produce all relevant records on the basis whereof they considered Netaji as a dead person while making or announcing the said award.

any satisfactory proof or particulars of Netaji's death they should be commanded by a writ of or in the nature of Mandamus to find out all unknown particulars of Netaji. Since the date of his disappearence and to trace his present whereabouts. The people of this country can not be subjected to such an event act of deception by withholding meterial facts or by declaring or treating Netaji as dead either on the work of such undisclosed facts, if any or withhout any warm at all.

19. The reliefs prayed for in the writ petition may be suitably woulded in the light of the stated and submissions

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made herein in the ends of justice.

20. Statement made in foregoing paragraphs 1 to 17 ( both inclusive) are true to my knowledge and those in paragraph 18 are respectful submissions before this Honoble Court.

Prepared in my Office :

Solf Bijan abosh

Sdf Bijon alash
( deponent)
In person

Solemnly affirmed before me on this the 30 day of June, 1993.

Conmissioner,

# NETAJI SUBHAS CHANDRA BOSE



TO UNRAVEL THE MYSTERY OF HIS DISAPPEARANCE



Member of Parliament

#### SRI CHITTA BOSU 28. GURUDWARA RAKABGANJ ROAD NEW DELHI-110001

#### AN APPEAL TO MY ESTEEMED COLLEAGUES AND MEMBERS OF PARLIAMENT

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I would, with all humility, appeal to my colleagues and members of Parliament not to take as granted the 'Reports' submitted by two Official members viz., Shah Nawaz Khan and Sri S. N. Maitra of the Netaji Inquiry Committee (1956) and the 'Report' submitted by Sri G. D. Khosla, retired Chief Justice of Punjab High Court, the only member of the Netaji Inquiry Commission (1970).

I enclose herewith an 'AIDE-MEMOIRE' which I hope, will be helpful in making proper appraisal of both the reports. Besides, evidences, oral and documentary of the witnesses would help in understanding the mystery.

I would further appeal to them to persuade the Prime Minister of to collect all possible information and documents about the activities of I.N.A. and disappearance of Netaji on and from 18th August. 1945, from South East Asia, from the Archives of the then Axis and Allied Powers.

After this, if it is generally held that the aircraft accident did not take place and that Netaji Subhas Chandra Bose did not die, as alleged, a demand should be placed for fresh investigative enquiry by a 'Body of Eminent Jurists'. They should also urge upon the Government of India to place before them the whole of oral

and documentary evidence, including the documents suggested in this 'AIDE MEMOIRE' at their disposal to form their judicial opinion with the assistance of the Counsels of the interested parties.

In this regard I may mention here that I submitted a Memorandum to Sri V. P. Singh when he was the Prime Minister and again to the present Prime Minister, Sri P. V. Narasimha Rao on 11th February, 1992. Although both the Prime Ministers assured me that they would take suitable steps in this regard, no positive result has come out so far.

I urge upon my colleagues in Parliament to prevail upon Government of India to make an all-out effort, even at this late stage, to unravel the 'MYSTERY'.

(CHITTA BOSU)

Member of Parliament

8

General Secretary

All India Forward Bloc

### **NETAJI SUBHAS CHANDRA BOSE**

AIDE-MEMOIRE

#### TO UNRAVEL THE MYSTERY OF HIS DISAPPEARANCE

Ex-Chief Justice of Punjab High Court, Mr. G. D. Khosla, one man Commission of Inquiry into the disappearance of Netaji Subhas Chandra Bose, was appointed as such by the Central Government Notification No. 25/14/80-Poll-II, dated 11th July, 1970, to—

"Inquire into all the facts and circumstances relating to the disappearance of Netaji Subhas Chandra Bose in 1945 and the subsequent developments connected therewith and make its report to the Central Government".

A. After exactly 4 years, Justice Khosla submitted his report to the Central Government on 30th June, 1974 and his findings inter alia are:

On 18th August, 1945,

- (xiii) "The plane took off at 2.35 p.m. but within a few seconds one of the engines blew out and the plane crashed near the fringe of the TAIHOKU air field. The body of the plane broke into two parts and caught fire".
- (xiv) "Bose had sustained burn injuries of the 3rd degree and despite the efforts of the doctors to revive him, he succumbed to his injuries the same night."
- (xix) "There is no reason for believing that the relations between Nehru and Bose were any thing but friendly on a personal basis".
- (xx) "There is not the slightest evidence of any attempt by Nehru to suppress the truth about Bose at any stage or to make false statements about his death at TAIHOKU on August 18, 1945. His concession to a public demand for enquiry was an instance of his compliance with democratic procedures and not an admission of his disbelief in the truth of crash story".
- (xxii) "There is no evidence of any attempt by the present Government to withhold evidence on place impediments in the way of this Commission".

(xxiii) "The Japanese, however, looked upon him (Netaji) not as an equal ally, but as a person whom they could use for their own ends".

From the above, it is clear to any intelligent person that the last four findings have no relevence vis-a-vis the terms of reference i. e., to enquire into all the facts and circumstances relating to the disappearance of Netaji Subhas Chandra Bose in 1945 and the subsequent developments connected therewith.

Then why these and many other irrelevant findings were given by Justice Khosla? Why also then in undue and unseemly haste, Justice Khosla has brought out a book called "Last Days of Netaji", where he quotes with approval the following at page 184?

DULCE ET DECORUM EST PRO PATRIA MORI (it is sweet and fitting to die for one's country) and makes the following brazen, atrocious, untrue and uncalled for remarks about Netaji's relation with the Japanese?

"They could not but consider him as something only a little more than a puppet" (page 30 of the Report.) "They showed little respect to him" (page 162 of the Book). "From the beginning they had wanted him as their tool, a pawn in their hands who could be made to move in compliance with their schemes and wishes" (page 168 of the Book).

The above remarks about the "Prince among the patriots" (Gandhiji said that about Netaji) have found place in his report too. It can be said unhesitatingly that all the above remarks and findings are against the tenor of the evidence produced before Justice Khosla.

Let us now discuss Mr. Khosla's findings No. (XIX) and (XX).

Not a single document was placed or oral evidence was aduced in support of the above findings. On the contrary, massive documents and evidence, of both Indian and Japanese, were placed against the above findings of Mr. G. D. Khosla.

(xix) News of Nehru's statements against Netaji, published in several national dailies from the period 1939 to 1946, will bear out the fact once for all that the relationship between Nehru and Netaji was far from friendly.

Those Files were lying with the then Prime Minister's Secretariat. He did not allow the Committee to Visit Formosa (TAIHOKU) also.

Nehru's so-called 'concession to a public demand for enquiry' as indicative of Nehru's belief in the truth of the air crash story, is nowhere near the truth. In aletter to Sri Amiya Nath Bose, a nephew of Netaji Subhas Chandra Bose, Nehru expressed that the findings of the Shah Nawaz Committee cannot be accepted and "something should be done to finalise this matter." He told Amiya Nath Bose (witness No. 182) that he (Nehru) had seen some secret records which "he had subsequently received". But those records were not submitted before Khosla Commission.

On September 11, 1945, Nehru himself told a Press Reporter of API at Jhansi that like many other people, he did not believe the story about the reported death of Subhas Chandra Bose. He said, I have received a number of reports which have raised in me grave doubts and I disbelieve the authenticity of the news". And those reports were suppressed and never produced before the Netaji Inquiry Committeee (1956) and Netaji Inquiry Commission (1970).

Also a question can be raised as to why Nehru told late Surendra Mohon Ghosh (witness No. 154), a Veteran revolutionary leader (who knew Netaji from his boyhood) and an ex-M. P., to enquire whether the Sadhu of Saulmari was Netaji. He also further instructed Mr. Ghosh to ascertain whether the Sadhu knew the German language, as Subhas knew the German language very well (Proceedings of Netaji Inquiry Commission).

The British intelligence informed their Government that Pandit Nehru "received a secret communication from Bose". This report was corroborated by Sri Shyamlal Jain (witness No. 21) while he deposed before Khosla Commission. In 1945-46 Sri Jain was working as a confidential steno of INA Defence Committee. He said "On or about November-December, 1945 Jawaharlal Nehru gave him four papers from his writing pad to make four copies of a letter, which he would dictate to me on typewriters, which I also complied. The contents of the letter as far as I could remember were as follows:

"Dear Mr. Atlee,

I understand from a reliable source that Subhas Chandra Bose, your war Criminal has been allowed to enter Russian territory by Stalin. This is a clear treachery and betrayal of faith by Russians. As Russia has been an Ally of the British-Americans, it should not have been done.

Please take note of it and do what you consider proper and fit.

Yours sincerely,

Jawaharlal Nehru"

The above mentioned evidence was never denied, nor controverted and or successfully challenged at any time either before the Commisssion (1970) or in public.

Does it not sufficiently prove that Nehru's relations with Netaji was far from friendly?

# B. NETAJI'S PLAN FOR ENTERING RUSSIA VIA MANCHURIA: Findings by G. D. Khosla One-man Commission of Netaji Inquiry (1970):

- i) "Bose was informed on August 12, 1945, that the War was about to conclude and the Japanese had decided to surrender to the Allied Forces. He was at that time at Saramban. The Message was brought to him there by Negishi (Witness No. 50)".
- ii) "Bose at once left for Singapore where he discussed his future plans with his colleagues and the Ministers of his Cabinet, almost day and night. Final

decision was taken on 14th when Sakai arrived and conferred with Bose. It was decided that Bose himself should leave Singapore and try to escape to Russia where he hoped to find asylum."

- iii) "On the morning of 16-8-1945, Bose left Singapore accompanied by Col. Habibur Rahman, S. A. lyer (Witness No. 29), a Japanese Liaison Officer Negishi (Witness No. 50), Col. Pritam Singh (Witness No. 155) and others. The party arrived at Bangkok at 3-30 p.m. and spent the night there".
- iv) "At about 8 a.m. on August 17, 1945, Bose and party left by two planes for Saigon. Bose's party included Col. Habibur Rahman, Deb Nath Das (Witness No. 3), Isoda (Witness No. 68), S. A. Iyer (Witness No. 29), Hachiya (Witness No. 51), Gulzara Singh (Witness No. 153), Col. Pritam Singh (Witness No. 155), Abid Hussain (Witness No. 157) and others. The party arrived at Saigon at 11 a.m."
  - v) Mr. G. D. Khosla, retired Chief Justice of Punjab High Court, refused to consider the evidence of Habibur Rahman, before British Intelligence (29-9-45) and Netaji Inquiry Committee (1956) on 6-4-56, as admissible according to Evidence Act. In course of argument, he declared that Habibur Rahman's evidence was non-est. In spite of the fact, Mr. Khosla religiously recorded various events of the narrated story not relying in any way on the evidence of the Japanese witnesses of 'convincing truth', but wholly relying on Habibur Rahman's evidence.

Sri Suresh Chandra Bose, a non-official member of the Netaji Inquiry Committee (1956), observed:

"As early as 1944, Netaji foresaw that the Japanese nation would have to surrender and that it was only a question of time. As the main object of his life was to continue his struggle for the liberation of India and as he could not do the same in those countries in the East, as they would come under the occupation of the victorious British and American forces and as for the same purpose and for the same reason, he could not continue his work also in Japan, he considered Russia to be a convenient and suitable country for his next future

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activities. He accordingly, started making contacts with the Russian Ambassador in Japan".

Sri Shah Nawaz Khan and Sri S. N. Maitra, Chairman & Official Member of Netaji Inquiry Committee (1956) observed:

"Netaji felt that for him it would be good policy to take shelter in Russia, from where he could come out in time to continue his war of liberation against the British......He asked Mr. Sahay to go to Tokyo and try to establish contact with the Soviet Ambassador there, Mr. Jacob Malik......An Official reference was made to the Government of Japan by Netaji to contact the Russian authorities on his behalf." Japanese Government's reply which was received sometime in June, 1945. Mr. Debnath Das has stated that about this time several alternative plans were considered. The first was to go to India and prepare for an armed revolution inside the country: Alternative, to go to Yenan (Communist China): And thirdly, to try and contact the Russians through the Japanese. The third alternative seemed to have found favour with Netaji...... Manchuria, which was next door, and held by the Japanese forces, was increasingly considered as the best place to move to".

# C. Statement of Japanese Witnesses (about the Plan of Netaji to go to Manchuria) before Shah Nawaz Committee and Khosla Commission:

- i) Gen. Isoda (Chief of Hikari Kikan) said that it was Hikari Kikan's plan to allow Bose to escape and to publish a false story regarding his death (Proceedings of Netaji Inquiry Commission-Page 3016). Mr. T. Hachiya (the Japanese Minister to the Azad Hind Government), Mr. T. Negishi (Japanese interpreter attached to Netaji), corroborated that the plan of Netaji was to go to Russia via Manchuria.
- ii) General Isoda has stated that the plane arranged for Netaji was a brand new bomber and that its take-off from Saigon aerodrome was quite normal and which has also been confirmed by Messrs. T. Hachiya, T. Negishi, Shri S. A. Iyer and others who were present there.

- iii) Gen. Isoda told Khosla Commission: "It was finally decided in that meeting (at Bangkok) that Netaji will go to Russia via Manchuria and the Japanese Government will give him monetary and other help." He further said, "He knew it definitely that Netaji was going to Russia" and added, "He was going to Russia via Saigon.........There was no plan to stay at Saigon."
- iv) All the Japanese and I. N. A. witnesses told Khosla Commission that Netaji had a secret meeting with Gen. Isoda and Mr. Hachiya at Bangkok and later he asked Habibur Rahman to join it. Habibur Rahman totally suppressed this fact from the British Intelligence team.

Hachiya (Japanese Ambassador to Azad Hind Government) told Mr. Khosla, "I met Netaji at Bangkok and told him that I have got a message from the Government of Japan. They said they are very grateful to you (Bose) and they have asked me to know from you, whether the Government of Japan could be of any help to you". During cross-examination Hachiya said that he "informed Netaji that the Government of Japan was willing to make arrangements for shifting him to some safe area".

v) Iyer wrote in his book UNTO HIM A WITNESS at Page-68, "General Isoda, Mr. Hachiya and a Senior Staff Officer of Field Marshal Terauchi stepped out of the car, walked briskly into the house where Netaji shook hands with them and immediately ushered them into one of the rooms. Habibur Rahman was also asked to join the fateful conference (17-8-1945). I do not know exactly what transpired at the conference, because I was not present".

At page-69, he further wrote, "But where was Netaji going? We did not ask him and he did not tell us. But we knew and he knew that we knew. The plane was bound for Manchuria".

#### D. FINDING OF BRITISH INTELLIGENCE:

a) "Bose considered that the Russian attitude was always in favour of India and her independence, and that at any time she might interfere on behalf of P.G.I. (249/INA G.H.Q. Case on Bose and Russia).

- b) "S. C. Bose was preparing to leave for Moscow in order to place all information about the Indian Freedom Movement before the leaders of the U.S.S.R. It was also said that Col. S. A. Malik would follow S. C. Bose to Moscow, B 766 heard the news from Lt. Subrammaniam (then Adjutant of the YE-U Rest Camp). In December, 1944, Lt. Sadhu Singh of H.Q.I. Div. I.N.A, who was acting as Q.M. of the YE-U Rest Camp, informed B 766 that S. C. Bose had left for Moscow and was soon expected back in TOKYO". (Secret File No. 24 9-INA-II (H) G.H. Q. case on Subhas Chandra Bose).
- c) "...There was no need for the Japanese to ask the Russians for Bose's entry because Bose wanted to go to Manchuria from where he thought he would be able to get in touch with the Russian Forces", (Head Quarter Main File-273 I.N.A.-10 Misc.)
- d) "On 16th August S. C. Bose came to Bangkok by a plane specially made for him by the Japanese. It is also suspicious that Bose had to change plane at Saigon and go on in another plane with one of his staff Officers. It would appear more likely that a person of Bose's importance would still be allowed to travel in his own special aircraft". (H.Q. Main File 273 I.N.A. 10 Misc.)
- e) "Bose had been trying to persuade the Japanese to allow him to go to Manchuria since Cctober, 1944, when they told him that they had no chance of invading India through Burma and that therefore, he was prepared to try another road to Delhi via Moscow. Reference should be made to HIKARI'S telegram at the time Bose arrived in Saigon. Isoda was also there and this fact may be significant that there was a plan on the part of HIKARI KIKAN to allow Bose to escape and to publish a false story regarding his death. This would have been the ideal place for ISODA (Chief of Hikari Kikan) to put into operation any such plan.....these are part of a colossal and well executed deception manoeuvre. This file of Telegrams along with numerous other documents must have been purposely left for the British to find them. Although at this stage one cannot rule out the possibility of Bose being still alive, this file of telegrams contains four and

most important one, which gives an idea of the plan to allow Bose to escape and to publish a false story regarding his death". (H.Q. Main File 10 MISC INA 273 subjects Subhas Chandra Bose, Page-10).

TOP SECRET 4 SIGNALS OF HIKARI KIKAN REGARDING MOVEMENTS OF NETAJI SUBHAS CHANDRA BOSE

SEATIC Section
Intelligence Assault Unit.
7th Ind Div SLF SIAM

24th September, 1945.

Subject: Translation of messages for death of Bose found in a file of reports belonging to the HIKARI KIKAN.

"TOP SECRET"

1. HIKARI KIKAN SIGNAL RE: "T" (TN: Bose)

August 18

To: OC HIKARI KIKAN

FROM: Chief of Staff, Southern Army,

Southern Army Signal 303.

Today at 1700 hrs (17 Aug) 'T' with Lt. Gen Shidei

and others, left here for TOKYO VIA FORMOSA and DAIREN.

Inform Indian Community of this

Depending on circumstances, I expect to return in two or three days. (from OC KIKAN)

2. TO: OC KIKAN

FROM: Chief of Staff Southern Army.

Southern Army Staff II Signal 66 20th Aug. "TOP SECRET"

"T" while on the way to the capital, as a result of an accident to this Aircraft at TAIHOKU at 1400 hrs on the 18th was seriously injured and died at midnight on the same date. His body has been flown to TOKYO by the Formosan Army

I have thanked the Formosan Army, for their kindness. Further I have asked that proof of his death in the plane accident remains, photographs etc.-be collected.

As for the centre, I am getting Staff Officer TADA, who leaves SAIGON on the 20th to take up an appointment, to provide them with a detailed report. I wish secrecy to be maintained in handling the matter.

3. HIKARI KIKAN SIGNAL RE: 'T"

24 Aug. 1945

TO: OC MALAY Branch (TN: not clear)
OC SAIGON EMBARKATION POINT

Chief of Staff, Southern Army.

FROM: OC HIKARI KIKAN

Re: Death of 'T' please ensure that Indian communities are informed of the DOMEI despatch reporting 'T', death.

Document 128

4. HIKARI Message 1020

27 Aug. 1945

TO: CHIEF OF Staff, Southern Army

FROM: OC HIKARI KIKAN

Request urgently the report on the later progress of Col. 'HABIB RAHMAN'.

N.B. These messages were found in the ordinary file in their proper place and numbered and docketed in the usual manner. There was nothing suspicious about them and they did not appear to be interpolations.

pp S. Hyder Capt.

Signals Nos. 4, 5, and 6
SEATIC DOCUMENT 128

- f) "It was noteworthy that No. 1 message was sent by Lt. Gen. ISODA himself who was in Saigon at the time. The message was not sent until 18 August.....in view of the fact that the Signal was given an 'URGENT' priority, it seems obvious that in actual fact the Signal Originated on 18 August, 1945" [Secret No. 63/2/10 G.S I. (b) HQ. SACSEA COMMISSION No. 1, Saigon, 18th October, 1945]
- g) ".....Possible that ISODA had come here (Saigon) to workout and co-ordinate his 'deception plan' with Lt. Gen. NIMATA and he stayed on until this plan had been executed under his personal supervision". [Secret No. 63/2/10 G.S. (b) H.Q. SACSEA COMMISSION, 18th October, 1945] Lt. Gen. ISODA (Chief of Hikari Kikan). "The purpose of his (Netaji's) flight was to go to Soviet Union. He was going to Russia via Saigon." [Proceedings of Netaji Inquiry Commission 1970].
  - h) Col. Tada, one of the Staff Officers of the F.M. Terauchi, (Supreme Commander, Japanese South East Asia Command) told, "after the end of the war when Japan surrendered, Terauchi took all responsibilities to help Netaji and asked him to go to Kaka Bose (His Excellency Bose) and tell him to reach Russian territory all help will be given to him. It was arranged that Chandra Bose will fly in the plane in which Shidei was going, General Shidei will look after Chandra Bose upto Dairen, and thereafter, he could fall back on his own resources to contact Russians. Japanese would announce to the world that Bose had 'disappeared' from Dairen. That would absolve them of all responsibilities in the eyes of the Allies". (Proceedings of Netaji Inquiry Commission 1970).
  - i) Mr. Finney, the Director of Intelligence Bureau of the British Government attached to Mac Arthur's Head Quarters at Tokyo, in an urgent message from Bangkok informed his higher authority in India: "on November 12, 1945, he examined a man named K. Watanabe, who was working as an interpreter in Hikari Kikan. Watanabe told him that on August 16 or 17, 1945 he was asked to work as interpreter in a meeting held at the residence of Isoda, between Isoda

and Subhas Chandra Bose, who was accompanied by Major Bhonsle and Lt. Col. Habibur Rahman. The meeting ended before Watanabe reached there. Isoda talked without any interpreter. They discussed how Bose could be sent to his destination. That Bose's was going to Russia was more or less known, perhaps it was Manchuria."

- j) Mr. Finney, in that message, informed his higher authority, "It was an understood thing in the Embassy and in Hikari Kikan that he (Bose) was going to hand over himself to the Russians in Russia". (Khosla Commission-Exhibit No. Com. 28/V)
- k) After receiving this message, Intelligence team resume fresh interrogation of General Bhonsle. The team recorded: "What we feared, it happened exactly so. But he (Bhonsle) admitted that he himself and Habibur Rahman, Lt. Gen. Isoda and Col. Kagawa had a meeting with Bose. He also admitted that they discussed how Bose could be sent to his destination. Bhonsle further admitted that Bose had the intention to go to Russia......But it appeared that he (Bhonsle) was not willing to say much about the matter. Avoiding related questions, he only said, If anybody of his trusted men knew anything about the real plan of Netaji then none will say it now."

This Report was made by Lt. Col. Mckwright (Exhibit No. Com./28/S.

Day

- E. This extraordinary man (Netaji) "vanished" many times before 18th August, 1945 and if he did not chose to reveal his whereabouts even his closest relations and associates would not and could not know where he was.
- i) At the age of 18, according to late Sri Bhasin, the Commission's Counsel, he was swept by a spiritual urge within which made him leave his house surreptitiously, whithout anyone getting a wind of it, in search of a Guru.
- ii) In 1941, during the height of 2nd World War, while being in house internment, his extra-ordinary feat of escape from Elgin Road, Calcutta to Kabul, Russia and Germany, without anyone being taken into confidence about the total plan and without having the assistance of an organised group of people like the I.N.A.
- iii) In 1943, the historical 90 days' submarine voyage from Kiel to Singapore, with a change of Sub-Marine at Madagascar in the turbulent seas without the Allies knowing anything about it. Further, not a single member of the German crew of the submarine knew who he was, though he used to give discourse on The Gita to them everyday, during this long voyage.
- iv) His arrival at Singapore was kept such a close secret that before his presence was announced in the public meeting at the Parade Ground, Singapore very few people knew that their would be Supreme Commander was already there.
- F. Netaji foresaw much before August, 1945 that Axis powers were going to be defeated in the 2nd World War.
- a) As early as 1942 Netaji knew that Allies would be winning. In the last autumn of 1942, he told German Admiral Canaris, "You know as well as I do that Germany cannot win this war. But this time victorious Britain will loose India". According to late Bhasin: "Such was his assessment of the situation at home and abroad, and how correct".
- b) Sri Shah Nawaz Khan, in his evidence, confided that as early as 1944 Netaji clearly vjsualised that Axis powers were losing the war. He said on oath

that Netaji said in October-November, 1944 in a Cabinet meeting "Axis powers would lose and the Anglo-Americans would win".

- c) Sri Surendra Mohan Ghosh, who knew Sri Subhas Chandra Bose (Netaji) intimately, in his evidence, deposed that Netaji was of very secretive nature.
- G. Realising as early as 1942 or as late as 1944 what would be the outcome of war, what this 'PAST MASTER' of planning would do?

There is massive evidence to show that he did plan to shift his area of operation to Soviet Russia, Indo China or China:

Though none seemed to know the inner core of the plan many knew barely that there were plans for shifting the area of liberation movement. While Sri Shah Nawaz Khan said that even as early as 1944, Netaji was trying to contact Russians and Ho Chi Minh so that war of liberation continued from there. Sri S. A. Iver, Minister of Publicity and Propaganda, Azad Hind Govt, and Sri E. Bhaskaran, Netaii's confidential secretary, deposed that "It was decided that base for liberation struggle should be shifted to Russia". Sri Deb Nath Das, Sved Samsul Zaman, General Secretary I.I.L. Northern Shan State, Sri V. C. Sharma, Sri S. C. Sen Gupta, Sri M. S. Doshi, Col. Thakur Singh, Mr. Tara Kono, Lt. Gen. Isoda, head of the Hikari Kikan, Lt. Col. TakaKura, Maj. Gen. S. C. Allagappan, Dr. S. Vasava Menon, Dr. B. Rama Chandra Rao, Sri S. S. Virik, Asstt. Manager of Air-India, Sri Gandhi Nathan, Sri S. Ishwar Singh, Col. Pritam Singh, Dr. R. N. Kasliwal, Sri A. M. Sahay and many others deposed that there were plans to shift the area of operation to Russia, China, Indo-China and even to India. According to Sri A. M. Sahay, near the end of 1944, he left Rangoon for Shanghai and set up a Territorial Committee with headquarters at Shanghai and branches in Canton, Tintoi and other towns in Manchuria. The witness established an office at Hanoi with a view to contacting the Chinese and Russian Communists and met Ho Chi Minh in this connection. [Proceedings of Netaji Inquiry Committee (1956) and Netaji Inquiry Commission (1970) 1.

Long before the war ended, realising the ultimate defeat of the Axis powers, this master planner planned to shift his area of operation and it was not a last minute haphazard plan as Justice Khosla wants us to believe. Further than that, it has come on evidence that the 'plane crash story was a part of a strategy' so that victorious Anglo-Americans could not be on his heels.

- (iii) Sri U. C. Sharma, Sri S. C. Sen Gupta of secret service, Dr. B. Rama Chandra Rao and Sri Deb Nath Das deposed that plane crash story was only "a cover". Even Sri Amiya Nath Bose, during his visit to Japan and discussions with Japanese officials, learnt that there was a plan of landing Netaji at Port Dairen and announcing to the world that Netaji died in a plane crash. Sri E. Bhaskaran, confidential secretary to Netaji, deposed that Netaji dictated a long letter to John Thlvy, on 17th August, 1945, early morning in the following terms "I am writing all this to you as I am on the eve of taking a long journey by Air and who knows an accident may not overtake me".
  - H. It was proved abundantly that not only that there was a plan to shift the area of operation, but that the plane crash story was an integral part of such strategy:

Justice Khosla said on one occasion: "If there was a plan like this, it is a very strong argument against the findings of the Shah Nawaz Khan Committee". He further said, "If the existence of such a plan is established it will go a long way to prove that Netaji did not die in a crash". (Vol. II, Pages 499 and 500 dated 4-11-70)

I. There was plethora of evidence from high and low, pointing to a very peculiar trait of Netaji's character, that is, he was of very secretive nature and therefore the execution part of the plan of escape was known to very few. Amongst the Indians none except perhaps Col. Habibur Rahaman was taken into confidence.

Shah Nawaz Khan's evidence is: "It was entirely for Netaji to discuss what he wanted".

Sri S. A. Iyer, Propaganda and Publicity Minister of the Azad Hind Government does not hesitate to confide that he did not know the members of the Secret Service of I.N.A. He further said: "Netaji was very reticent about the discussion of things that did not concern the particular person and did not take me into confidence as to what he discussed with the Japanese Government".

He further says: "Inner plan was not known to most of the Cabinet Ministers".

Sri S. T. Mehtani's evidence is very revealing. He says: "Netaji was a very secretive person and he never discussed his plans even with his Cabinet colleagues. All the time he was under mystery. Even till the last moment, nobody would know where he was going".

This has been the evidence of Sri S. C. Sen Gupta, Mr. Negishi, a Japanese businessman, Col. Gulzara Singh, Sri Deb Nath Das, and many others.

Sardar Niranjan Singh Talib, ex. M. P., a close associate of Netaji and ex. President of Punjab Pradesh Congress Committee said unhesitatingly that Netaji was determined not to disclose his top secrets even to his Colleagues. Lt. Ccl. Taka Kura, who was Staff Officer at the Imperial Gen. H. Q., Tokyo, is forced to admit that "Perhaps nobody knew by what plane he was coming".

# J. But why was all this secrecy? Answer is not far to seek.

- i) Netaji was by nature a secretive person and never divulged more than necessary minimum information to even a confidant.
- ii) He became more secretive because Axis powers were losing and he had to shift his liberation movement to some other soil without Allies getting any wind of it. There was another reason.
- iii) The secrecy was all the more necessary when it was on record that information about every movement of I.N.A., at this crucial stage, was passed on to the Allies by some very high I.N.A. personnel.
- iv) Col. Thakur Singh and Sri A. M. Sahay admited that there were few cases of defection. Sri S. C. Sengupta, the intelligence officer, who was very close to Netaji, said on oath that it was within Netaji's knowledge that some traitors were dropped in the war front to liquidate Netaji and Netaji told him: "one of the high ranking officers had deserted us".
  - v) This secrecy was necessary as an abundant caution.

- K. This is why none, except, perhaps, with the honourable exception of Col. Habibur Rahman amongst the Indians, was taken into confidence about the ultimate plan of Netaji. Why Habibur Rahman? Was it an accidental choice?
- i) He was chosen by Netaji and Netaji alone because of his being (a) Deputy Chief of Staff, whose words about crash etc. could not have been doubted by the pursuing Anglo-American forces; because of his (b) unquestionable loyalty to Netaji and as such (c) his capacity to keep a secret as a secret.
- ii) While Sri A. M. Sahay says that Col. Habibur Rahman had such deep sense of loyalty for Netaji that he would not hesitate to tell lies for the safety of Netaji.
- iii) Legendary Maj. Abid Hassan, who perhaps was the only Indian with Netaji in his historic Submarine voyage from Germany to Singapore says: "For finding out whether that accident took place or not, that one person could not be Habibur Rahman.
- iv) Col. Pritam Singh, deposed that Rahman was under an oath of secrecy to Netaji and he would never give any information about him. Col. Thakur Singh and Sri K. V. Narain say that Col. Habibur Rahman's devotion to Netaji was such that he would never tell the truth about Netaji's whereabouts.
- v) What does Shah Nawaz Khan say about Habib in Vol. I at pages 63 to 74 of his evidence? "He (Habibur Rahman) was so devoted to Netaji that he would not have hesitated one minute even to sacrifice his life at that time. He was deeply devoted to Netaji and any order or instruction given to him he would faithfully carry out, even at the cost of his life. He is of that type".
- vi) "Col. Mahboob Ahmod who was Chief of Protceol and Joint Secretary, Ministry of External Affaires, Government of India and becams our Ambassador for quite a number of years deposed in Vol. V at page 1917 to the following effects "He (Habibur Rahman) is one of those officers who would do anything for Netaji". At page 1922 there is an interesting piece of evidence.

Sri P. K. Bose; "If a secret was entrusted to Col. Habibur Rahman in your estimation, his character is such that he will keep it a secret all his life, unless countermanded by Netaji himself". Col. Ahmed: "That is my assessment of Habibur Rahman".

- vii) Sri S. A. Iyer confirms at page 4072 of his evidence that on his last known journey Netaji took Habibur Rahman with him without consulting anyone.
- viii) After interrogation of Col. Habibur Rahman, the Intelligence Bureau, New Delhi, on May 19, 1946 (No. C-5 Page 5), recorded, "Habibur Rahman's report is unsatisfactory. The multitude of discrepancies in accounts of actual air crash as given first to CIC in Tokyo and later to CSDIC, is being taken up.....".
- ix) Sri S. C. Sen Gupta of secret service of I.N.A. confides that in the fateful secret meeting of 17th August, 1945 (even today none, except the participants, knows what transpired in that meeting) only Habibur Rahman amongst the Indians and some top Japanese Officers conferred with Netaji.

Can any one now fail to realise why Col. Habibur Rahman was the lone Indian companion of Netaji "in his journey to the unknown". ?

# L. The plane crash storywas a put up story and did not stand scrutiny.

Massive evidence was analysed to bring home the truth that from this evidence no sensible person far less a judicial person could come to the conclusion that there was a plane crash or that Netaji died in such a plane crash.

i) The alleged occupants of the plane gave contradictory versions about the seating arrangements. Why? It is admitted fact that neither there was any seat nor seatbelt. If on the top of that, plane actually crashed the way it is said to have nose dived then all the passengers falling in a heap with luggage falling over them and fire breaking out, there could not be a single survivor in such a plane crash. But miracle of miracles; 7 or 8 persons survived with very minor injuries so that they could give evidence in details about the plane crash and Netaji's alleged death before the Inquiry Committee and the Commission.

- dying and none of them knew Netaji before 17th August, 1945. About the air-crash and its impact their depositions are at such variance from one another that their evidentiary value is non est. Is it conceivable that in his journey from Taihoku the head of the Azad Hind Government will not be accompanied by a single Japanese officer, known to him who would be able, at least, to identify him? Did not the protocol demand that the head of a State, while travelling, is accompanied?
- iii) It is on record that even on 17th August, 1945 Netaji was closetted with Lt. Gen. Isoda, the head of the Hikari Kikan, Col. Tada a Staff Officer attached to Field Marshal Count Terauchi's Headquarters and Mr. Hachiya, the Japanese Government representative to Netaji's Azad Hind Government.
  - iv) Apart from the evidence of Dr. Yoshimi and Dr. Tsuruta (of which the less said the better) all evidence given on Netaji's alleged death was hearsay evidence and non acceptable in a Court of Law. Lt. Gen. Fujiwara, Mr. Tadashi Ando, Lt. Col. Tadao Sakai, Mr. Negishi, Mr. Hachiya, Lt. Col. Takamiya, Col. Nonogaki, Mr. Watanabe, Maj. Takahashi, Lt. Gen. Isoda, Lt. Col. Shibuya—all said without exception that they had no personal knowledge about the alleged death of Netaji.
- v) Sri S. A. Iyer, the publicity and propaganda Minister of Azad Hind Government, was told by the Japanese on the 20/21 August, (i.e. after three days of alleged crash) that he would be taken to the place of plane crash and shown Netaji's body. But in spite of his repeated requests and repeated assurances by the Japanese he was never taken there. What does it prove? It is simple to prove that as there was no plane crash, the Japanese naturally were unable to take him to the site of the non existant plane crash. Curiously enough, the same lyer without further verification, drafted the news of plane crash and Netaji's death which was published by the Domei News Agency.

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v) Sri lyer told the Japanese Militaray Officer: ".....not a single Indian in East Asia or in India would be prepared to believe what the Japanese might say about Netaji's Plane-Crash unless they produced convincing proof of the accident." (Unto Him A Witness-Pages-99 & 100)

Sri Ayer confessed: "Then they wanted me to draft the announcement.

I dictated a draft and asked them to show me the final draft before announcing it.

"Frankly speaking, I was not inclined to believe their story at that moment.....".

And on that news item mainly, which was hearsay on hearsay, Mr. Khosla was satisfied about the plane crash and Netaji's death, though not a single piece of documentary evidence i.e. the passenger list, flight Chart, weather report etc. has been produced to prove that even a single plane flew in the skies of Taihoku (Formosa) on the 18th of August, 1945. As even the plane flight has not been proved, it logically follows that the so called plane crash and Netaji's death have not also been proved.

- vi) Another extraordinary feature of the evidence is that the identity of the so called copassengers and the so called doctors was not checked, following the ordinary legal procedures. Therefore, if the oral evidence is non est and documentary evidence is scarce, what remains of the evidence of plane crash and death? Nothing excepting lyer's drafting the news which was hearsay on hearsay and which was published by Domei News Agency as being authentic.
- vi) A comparative CHART of the news of the alleged plane-crash and Netaji's alleged death circulated by different Agencies is given below:

TARREST ORDERS PROSERVED FOR LEGISLAND BLICK

## THE ALLEGED DEATH NEWS OF NETAJI CIRCULATED BY DIFFERENT NEWS AGENCIES

TO O C KIKAN

FROM: Chief of Staff Southern Army
Southern Army Staff II

SIGNAL 66, 20th Aug. '45

#### "TOP SECRET"

- a) "T" while on his way to the Capital (TOKYO), as a result of an accident to this Aircraft at TAIHOKU at 14.00 hrs. on the 18th was seriously injured and died at MIDNIGHT on the same day.
- b) His body has been flown to Tokyo by the Formosan Army.
- SEATIC SECTION
  Intelligence Assault Unit
  7th Ind Div ALF SIAM
  24th September, 1945

Announcement by

DOMEI NEWS AGENCY on

23rd August, 1945

Mr. Bose.....left Singapore on August 16 by Air for Tokyo for talks with the Japanese Government. He was seriously injured when his plane crashed at TAIHOKU air field.

He was given treatment in Hospital in JAPAN where he died at midnight.

Lt. General TSUNAMASA SHIDEI was instantaneously killed, and Col. Habib-Ur-Rahman.....and four other Japanese officers were injured in the crash.

Statement issued by
Information Service of India-Tokyo
Published on August 24, 1945 in
ASAHI HSIMBUM

Mr. Chandra Bose....met an air accident in the outskirt of Talpeh airport at 14.00 hrs. on August 18 and sustained severe injuries.

He was treated at the Hospital on the spot but passed away at midnight on August 18,

Col. Habibur Rahman, Mr. Bose's aide who had been accompanying him, sustained asevere injury and Lt. Genl. Shidei killed instantly. Four Officers suffered serious or otherwise minor injuries.

vii) Two Intelligence teams were sent to Sonth Asia in September, 1945, under the command of two British Officers, with a warrant of arrest against Netaji. Sri Sashadhar Majumder of I. B. West Bengal, deposed that two Intelligence teams were sent to Bangkok in September, 1945 to investigate about Netaji's alleged death. Sri Himangsu Roy, a member of one of those teams, said at page 434 of the Netaji Inquiry Commission (1970): "We were sent to arrest Netaji".

Sri Kalipada Dey, another member of the team, said in his evidence that they, after investigation, had no direct evidence about Netaji's death.

# M. The Japanese were and are very photo minded :

- a) It is in evidence that Netaji could not escape the onslaught of a Camera even while going in or coming out of the bathroom. But there is not a single photo produced of dead Netaji. If Netaji actually died then there was every reason for the Japanese to take innumerable photos of the dead body and show these to the world, as a convincing piece of evidence of his death.
- b) As no harm could have been done to a dead body, the Japanese in the event of his death on 18th August, 1945 i.e. 3 days after the Japanese surrender, would have kept his body and shown the same to the Allies, which might give an opportunity to the vanquished Japanese to negotiate for better terms with the victorious Allies.
- c) If Netaji actually died why should they i.e. the Japanese keep this in such mystery-when this mystery neither served their cause nor did it serve Netaji's cause (if he was dead)?
- d) Though the so-called co-passengers admittedly never knew Netaji before the date of the so called plane journey, it is interesting that none of the confidents of the crucial closed door 17th August meeting was an eye witness to the alleged plane crash.

- 21
- e) As it was already urged that Netaji was shifting his area of operation according to his plan, it was pointed out that pilot, co-pilot, engineer, navigator and Gen. Shidei, who were shown to be dead alongwith Netaji in the alleged plane crash, were, and not the alleged survivors, the only passenger who could help Netaji to fly away to his destination and that is why they were shown to be dead, so that the pursuing allies could be sent on a wrong trail.
- N. So called Doctors' evidence was at such variance from one another and also from their own statement given before Anglo-American intelligence, Shah Nawaz Khan Committee and Khosla Commission that none, in his senses, could believe their testimony.

A CHART of comparative statements of Dr. T. Yoshimi witness No. 48 and witness No. 72 of Shah Nawaj Committee and Khosla Commission respectively before different agencies, is given below:

#### CONTRADICTORY STATEMENT OF DR. T. YOUSHIMI

## STATEMENT ON 19.10.46 BEFORE (THE 'ALLIED INTELLIGENCE')

- On 18th August (1945) at 5 P.M., Bose with 6 or 7 persons were brought to the Hospital
   (No mention about a Telephone message of crash)
- He personally cleaned Bose's injuries with oil and dressed them.
- Bose was suffering from extensive burns over the whole body-so much so that very little was left of his identification marks (Still this Japanese identified Netaji after 11 years of the crash when shown Netaji's photo (fully dressed) by the Shah Nawaz Khan Committee).

# DEPOSITION FROM 21.5.56 TO 23.5.59 (BEFORE SHAH NAWAZ COMMITTEE)

On 18th at about 2 P.M. received Telephone message from Airport intimating plane crash. 20 minutes thereafter injured persons brought including Bose. 13 or 14 persons were brought.

At about 2-30 p.m. a 'Shidosha' carrying Mr. Bose alone, arrived at the hospital followed by a car occupied only by a staff officer of the Military H. Qr. in Formosa and then by lorry carrying 12 or 13 injured persons. Mr. Bose who was lying absolutely naked on a bed in the Shidosha was brought in to the Hospital on a Stretcher.

DR. TSURUTA (not he) applied
White ointment against burns and
bandaged.

He was severely burnt. It took a greyish colour like ash. Even his heart had burnt. He had 3rd degree burns. His face and eyes were swollen. He was in high fever; his temperature was 39° Centigrade. His pulse rate was 120 per minute. His heart condition was also week.

[Can any one remember all these details (even pulse rate) about a patient after 11 years and of whom no record was kept. ?]

## DEPOSITION ON 24 4.71 (BEFORE G. D. KHOSLA)

Little before noon received Telephone call from the Airport. 7 persons, including 2 Indians, arrived at the Hospital at about 12-30 P.M.

He treated his burns all over his body. He was bandaged all over his body after applying plaster.

Chandra Bose suffered general burns all over the body. His heart was not burnt.

That is a mistake.

(He signed the earlier statement verifying the same). His burn was that of 3rd degree.

(Can anyone remain conscious after having 3rd degree burns?)

His features still remained when he was brought to the Hospital, there were no bruises, no swelling, only the colour of the skin changed. Later on his face swelled. He admits that his earlier statement about swelling was incorrect.



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When he examined Mr. Bose in dressing room and not in the operation theatre, he found that Mr. Bose's burnt were of severest, 3rd degree type but there was no injury on any part of his body, from which blood came out.

He (Dr. Yoshimi) gave him one after the other, for his heart, four injections of Vitacamphor, two injections of Digitamine and three injections of Ringer's solution.

He also let out about 200 c.c. of blood and transfused about 400 c.c. of blood, which he obtained from a Japanese soldier there. He (Netaji) was then given Sulphonamide injection to prevent infection.

He then went to attend the other injured persons, leaving Dr. TSURUTA in charge of Mr. Bose, during whose treatment and even later, the following persons were present. Viz., Mr. Nakamura, the Chief Nurse and another Nurse (both gapanese) and Col. Rahman.

# STATEMENT ON 19.10.46 BEFORE (THE 'ALLIED INTELLIGENCE')

- After 9 P.M. he was sinking into unconsciousness—ne was in coma never regained consciousness and died at 11 P. M.
- After 10 day's (i. e. on 28th) treatment, Habibur Rahman went to HOKUTO Army Hospital taking Netaji's ashes with him.
- 6. (Nothing remembered)

# DEPOSITION FROM 21.5.56 TO 23.5.56 (BEFORE SHAH NAWAZ COMMITTEE)

"It was shortly after 8 P.M. that Mr. Bose breathed his last".

Tried to give artificial respiration.

(Never mentioned earlier)

At the time of his (Netaji's) death he, Dr. Tsuruta, Mr. Nakamura, two Japanese Nurses, Col Rahman, one Military Policeman and Col Nonogaki were present.

Habib left Hospital on the 30th August with Netaji's body and never came back. He does not know where he went. He does not remember how that Habib took the ashes.

In case of severe burns of 3rd degree, the blood gets thicker and there is high pressure of the heart. Blood needs to be let out. So, the Doctor himself let out approximately 200 c.c. of blood and transfused 400 c.c. of blood into him.

He instructed Dr. Tsuruta to give him (Netaji) Vita-Camphore in ection every helf on hour...

Mr. Bose's body was then removed to a corner of the same room and a screen was put in front of the body.

## DEPOSITION ON 24.4.71 (BEFORE G. D. KHOSLA)

He was conscious for 7/8 hours, Mr. Bose survived in the Hospital for 12 hours and died in his presence. His statement before Shah Nawaz Khan Committee that Netaji died shortly after 8 P.M., he thinks to be incorrect.

Habib left with Netaji's body the day after his death. He never came back. The dead body was removed on the 19th morning (when confronted with his earlier statement he said that he was not sure which of his own statements was correct).

The Doctor gave blood transfusion. No. Blood transfusion was given by a Surgeon from Army H.Q. whose name he did not remember. He did not let out blood from Bose's body. Even in 3rd degree burns blood transfusion possible without letting out blood. Blood transfusion was not given by him. He admits that his statement before Shah Nawaz Khan Committee was wrong. He was not present when blood transfusion was given.

- i) According to DR. TSURUTA (Witness No. 39 of Netaji Inquiry Committee 1956) he was present from the time Netaji was brought in, till the time he died (?). He further said, on 18-8-1945 at about 3 P.M., about a dozen injured persons, including Mr. Bose and Col. Habibur Rahman arrived at the hospital in a truck and all of them were carried to the Dressing Room and they were attended to there, while they were lying on their stretchers and after having been dressed, all the Japanese were removed to one room and Mr. Bose and Col. Rahman were sent to another room, and for privacy, a srreen was put Round Mr. Bose's bed. When Mr. Bose was first brought to the Dressing Room, both the Doctors (Dr. Tsuruta and Dr. Yoshimi) attended on him and his burns, which were of the severest type, were smeared with white ointment and were then bandaged, Later on, he was removed to the Ward, where an injection of Ringer's solution and after that, injections of Cardiotonica and Sulphonamide were given him. To the best of his recollection, no other injection or blood transfusion was given him, nor was his blood let out. He was present all the time in Netaji's room and Dr. Yoshimi paid occasional visits and there was no whole time nurse on duty in his room. At about 7 P.M. his condition suddenly took a turn for the worse, when they gave him injections for the heart, but to no effect, and he expired between 7 to 8 P.M. when both the doctors, Col. Rahman, Mr. Nakamura, the Military Police Guard were present.......His body remained on his bed and at the same place for the whole of the night.
- ii) DR. YOSHIO, another Doctor deposed before the Khosla Commission: "When I went to the Ward, a Nurse was giving blood transfusion to Mr. Bose, but she was finding it defficult to get the needle to go into his vein.....The Nurse asked me to give the blood transfusion to the patient.....I asked the name of the patient and the Nurse told me, that gentleman was His Excellency Mr. Bose".

There were innumerable such discrepancies and contradiction and because of these irreconcilable discrepancies the so-called doctors' evidence could not be believed.

Nor is there any reason for which Col. Habibur Rahman's evidence about the alleged plane crash and Netaji's alleged death can be accepted as the truth since truth never varies. Col. Rahman's statements, made on different occasions, do not have even a semblance of Consistency.

A comperative CHART of the statements of Col. Habibur Rahman is given below:

#### CONTRADICTORY STATEMENTS OF COL. HABIBUR RAHMAN

Point	C. I C. (Figgess) Report dated 29.9.45	C. S. D. I. C. Report No. 1156 dt. 31.12.45		Before S. N. Khan Committee on 6.4.56			
	He revealed that he had no knowledge of how Bose escaped or was removed from the plane.	On B. 1269's suggestion Bose changed his course and moved towards the front, etc.	no	Netaji turned towards me. I said "Please get out through the front there is way in rear". (Augay say nikaleay peechay say rasta nahin hay)".			

- B. He stated that upon alighting from the plane he noticed his own coat on fire.
  - burnt at all. (He wears them now at CSDIC (I).
- C. He then saw "Bose lying by the plane with his clothing afire".
- B. 1269 noticed Bose in a standing position about 12 yards away with smoke coming from his garments.

B. 1269 wore knee-boots, serge breaches

and a serge tunic: his clothes were not

- Rahman went to the aid of Bose and removed his burning clothing.
- clothes.

Bose was endeavouring to remove his

- He added that the seat Bose occupied in the aircraft was beside a petrol tank and at the time of the crash the tank exploded, spreading the burning fuel on Bose's clothing.
- B. 1269 stated that Bose's clothes may have been drenched in petrol, as Bose sat under a petrol tank in the plane.

Bose had sustained serious burns all

over his body and when he was laid on

the ground B. 1269 noticed 2 or 3 fractures

- It was later determined that Bose received serious injuries about the head and neck in addition to his severe burns.
- Besides burns on the hands, B. 1269's face was slightly burnt on the right side, and he also received two minor wounds on the head and one lacerated wound on

Rahman received two lacerations on his head, one on his right leg and burns of his hands, arms and face. the right leg below the knee.

on the skull.

"The moment I got out, I saw him about 10 yards ahead of me standing and looking in the opposite direction to mine towards the West. "His clothes were on fire".

"My clothes did not catch fire."

"I rushed and I experienced great difficulty in unfastening his bush-shirt belt. His trousers were not so much on fire and it was not necessary to take them off."

"There was more fire on bush-shirt. All the same, his trousers had caught fire but my own impression is that since he was sitting in a squatting way in the plane, the petrol spread more on the upper portion of his (Netaji's) clothes and that is why the fire was more on the upper portion.

"I laid him down on the ground and I noticed a very deep cut on his head probably on the left side. His face had been scorched by heat and his hair also caught fire......The cut on his head was a long one about 4 inches long. He was bleeding profusely. It was a straight cut. I tried to stop his bleeding with my handkerchief."

"....my both ands were badly burnt. As I came through the fire, the right side of my face was burnt and I noticed I had received a cut in forehead which was bleeding and also the right side of my right knee was also bleeding profusely as it has hit some hard substance. The head cut was caused due to my hitting the floor as the plane crashed. "My clothes did not catch fire. My hands were burnt very badly in the attempt to take of Netaji's clothes."

H. NO MENTION.

- On August 20, 1945 Bose was removed from the Hospital and his remains were placed in a box provided by the Japanese.
- J. Rahman requested the remains be flown to Singapore or Tokyo. Major Nagatomo informed Rahman on August 21, 1945 that it would be impossible to transport the remains by air due to the size of the box in which Bose was placed. Major Nagatomo suggested to Rahman at that time that the body be cremated and Rahman, after careful consideration, agreed.
- K. According to Rahman, photos were taken at the scene of the crash and also at the Hospital after the death of Bose. The photos are at present in possession of the "Japanese war Office" in Tokyo.
- L. NO MENTION.

Bose's body was kept in the room where he died, and B. 1269 remained there all the night together with Japanese guards and some patients. B. 1269 states that he did not keep any 'souvenirs' as none was available on the person of Bose after the accident all their luggage having been burnt on the plane.

A coffin made of sandal wood was brought to the Hospital and Bose's body was placed therein.

The Japanese staff colonel visited B. 1269 who requested him to make arrangements for the dead body to be taken to Singapore. B. 1269 was informed that as the coffin was too large it was not possible to transport it by plane and the idea had therefore to be dropped. B. 1269 then suggested that the body be cremated as the Japanese had said they were unable to preserve it.

".....two photographs of Bose were taken, one with the body fully covered inside the coffin, and the other with the lid of the coffin closed and B. 1269 seated by its side. Fruits and incense were placed on the coffin.

On August 22, 1945 at about 10.00 hrs. Bose's body was removed to a crematorium where a Japanese cleric who spoke excellent English, performed a religious ceremony. After this, Bose's body was taken out of the coffin and placed in a furnace. The door of the furnace was looked and the key was kept by

"I sat up the whole night in that room because it was quite hot and I could not sleep. The body was there and a Japanese sentry was guarding it."

"I told this Japanese officer that he should go and inform the Headquarted and request them on my behalf that I would like Netaji's body to be transported to Singapore where all our Government and Army Officers were present. On the morning of the August 19, at about 9-00 o'clock....... repeated my request to the Japanese Army staff officer that the arrangements for the transportation of Netaji's body to Singapore should be made."

"The face (Netaji's) could be recognised by me......The photo of his body (excluding the face) was taken at my request......I learnt that photos of the burnt plane had also been taken.....I cannot exactly say why the photographs were not taken on August 18 and 19, 1945.

"On August 20, 1945, I (Rahman) was informed that arrangements for the cremation had been made and soon after the coffin was put in a Japanese military lorry or ambulance. The coffin was escorted by two lorries full of Japanese soldiers and staff of the Hospital and Japanese officers in four staff cars. There were also a few civilians present. In one of the cars, a Japanese General (Praobably garrison

### CONTRADICTORY STATEMENTS OF COL. HABIBUR RAHMAN

A

NO MENTION

B

Japanese Military officer. B. 1269 had declined to take charge of the key as he was at the time running a temperature and was in a very depressed state of mind. The body was then set alight by the cleric's assistant. At the cremation there were about 30 Japanese medical and military officers present. B. 1269 does not recollect any of their names. B. 1269 states that he was the only Indian present at that time. About half an hour after the body had been set alight, B. 1269 left the crematorium with others.

Company of the cleric and staff major and 3 or 4 other Japanese visited the crematorium when the ashes of Bose were collected and placed in a wooden box specially made for the purpose, B. 1269 was shown a small piece of gold among the ashes which he believes was part of one of Bose's gold teeth. The box containing the ashes was then taken to a Japanese temple in the city, where a religious ceremony was again performed by

the cleric.

On August 23, 1945. B. 1269 in the

C

commander) also came......As far as I recollect one car was leading forward by the Lorry carrying Netaji's coffin, followed by escorts and other cars. I was in one of the cars in the rear. After arrival at the crematorium .....Netaji's coffin was removed from the lorry by the Japanse soldiers and the escort paid compliments according to their customs and all those present also paid compliments.... As far as I remember a Japanese priest was also present at that time. Body was taken out of the coffin and was taken up by the Japanese inside the crematorium.

"......The body of Netaji was taken out of the coffin and was placed on a stretcher like thing, into the incinerator.....The door of the incinerator was locked and I kept the key with me overnight.....This was approximately between 11 and 1 noon. I was brought back to the Hospital from the crematorium after the fire was set on....."

"On the morning of August 21, 1945, I went to the crematorium accompanied by two or three Japanese including the civilian and opened the lock of the incinerator with key which was with me. I was present and I saw the ashes of Netaji's body inside it. We had a wooden urn to collect the ashes. We collected some ashes from the head side, nearest to the door, and placed them in the urn. I remember distinctly that a little piece of gold, which was from the filling of one of Netaji's teeth was removed and placed in the urn".

Against the non-existence of any legally acceptable evidence of plane crash and Netaji's death, it was pointed out that there is massive evidence to show that Netaji not only survived the so called plane crash but was actually seen and heard by many people from different walks of life.

To give a few examples, Shri S. C. Sen Gupta of the Intelligence wing of the I.N.A., deposed that, in 1946, he had knowledge of a cable, which originated in General Mc. Arther's H.Q. to the following effect: "Subhas Bose escaped again".

Mr. Thomas of Penang deposed that he knew that Netaji had gone to Mongolia or Outer Mongolia in his own car which tallies with Shri Shamlal Jain's evidence that Pandit Nehru gave him a note to type (he was working as a typist during the historical Red Fort Trial) which described Netaji's escape by a Jeep.

Late Shri Deben Sen M.P., along with Shri Joglekar, another labour leader, saw Netaji in 1946 at Mersailles Air Port in France on their way to I.L.O. Conference in Geneva and the authenticity of this meeting was confirmed by both Shri Chapala Kanta Bhattacharyya, the then Editor of Ananda Bazar Patrika, Calcutta and Shri Mukund Parekh (late Shri Deben Sen's P.A.) Shri Jagdish Kodesia, Ex. President of Delhi Pradesh Congress Committee deposed that the Bishop of Dalat had told him in 1961 that when Netaji's alleged death was announced, he was actually staying with the Bishop.

Shri T. L. Shashivarna Thevar deposed that his cousin Sri Mathuramalinga Thevar, Ex. M. P., had gone abroad in 1949 and met Netaji in Korea as well as in China. Shri Barun Sen Gupta of Ananda Bazar Patrika and at present, the Editor of Bartaman, deposed that when in 1955 he met late Shri Mathuramalinga Thevar, this legendary hero of South India told him: "I was talking to Netaji, as I am talking to you".

Sardar Niranjan Singh Talib (deceased), Ex. M.P., and Ex. President of Punjab Pradesh Congress Committee and an Ex-Cabinet Minister of Punjab, deposed that he met one Mr. Wagg, an American Journalist and Political Correspondent

of Chicago Tribune, in late Sardar Baldeb Singh's (the then Defence Minister of India) house, who had showed him some photographs showing Netaji in Indo-China and had said him "Netaji disappeared in Indo-China and he did not die in crash". Sardar Niranjan Singh Talib further deposed that Sardar Sardul Singh (deceased), an Ex-President of Forward Bloc, told him that late Sardar had received some communications from some important Sikhs of Sanghai that Netaji had conferred with them much after August 18, 1945.

This evidence of Mr. Talib was corroborated by Sri Amiya Nath Bose, Dwijendra Nath Bose (both nephew of Netaji) and also from the different News Paper Reports of that relevent period.

There is no acceptable evidence of Plane crash and death and on the other hand, there is massive evidence also to show that Netaji was heard and seen by innumerable persons much after August, 1945.

Therefore nothing remained on which a finding could be given that there was a plane crash.

## In summing up it is submitted:

- a) No document has been produced either before the Shah Nawaz Khan Committee or the Khosla Commission to show that at least one plane flew in the skies of Taihoku on 18th August, 1945.
- b) All the Japanese evidence including the alleged co-passengers and Military Personnels' evidence is heresay evidence on the alleged death.
- c) No documentary evidence has been produced to show that the so-called passengers actually boarded the alleged ill-fated plane. Their identity even has not been established by applying ordinary legal procedure.
  - d) None of them knew Netaji Subhas Chandra Bose from before.
- e) Therefore, nothing remains to come to a finding that there was as plane crash.

- f) Habibur Rahman's evidence is non est.
- g) Only the Doctors claimed to have seen Netaji dying but their evidence is at such variance at material particulars and fundamentals, that the same has no evidentiary value. Verily, their evidence has to be rejected as being full of lies and contradictions.

## O. Against the above, there are the following facts:

- i) Fake plane crash was planned according to the evidence of Sri U. C. Sharma, S. C. Sen Gupta, the Intelligence Officer of I.N.A., Dr. B. Ramachandra Rao, Shri E. Bhaskaran and Shri Debnath Das. Mr. Kishi's written statement before Shah Nawaz Committee also proved that a fake plane crash was planned. Iyer's hand written note submitted to Nehru in 1951 mentioned his meeting with Col. TADA, who informed him that there was such a plan. Col. TADA was a staff Officer to F. M. Terauchi.
- ii) Shri Biren Chakravarty's (ex. Captain of the CSDIC) report and evidence showing that there was no plane crash. He should know as his global Intelligence Organization was trying to find out the veracity of the plane crash story.
- iii) Shri Mulkha Gobinda Reddy, Ex. M. P., Shri H. V. Kamath, ex M. P., Shri Prakash Vir Shastri, ex M. P. and others claim that the official report prepared by the Formosan Government definitely leads to the conclusion that there was no plane crash.
- iv) Shri Pritam Singh's (of Taiwan) evidence of Mayor's (of Taipei) report where it says conclusively that on that day or a day before or after that day, there was no plane crash at Taihoku.
- v) Shri Alfred Wagg, the Political correspondent of Chicago Tribune, meeting Netaji and taking his photographs in Indo-China. This piece of evidence

has come through the evidence of Sardar Niranjan Singh Talib, Shri Amiya Nath Bose, Shri Dwijen Bose and others and also from the newspaper report of the relevant period.

Japanese surrendered on the 15th. As Netaji did not accept the offer of asylum by the Japanese Government, they had to hand him over to the victorious Allies. But the fact is that they did not. And the fact is that the Head of the Hikari Kikan was closetted with him on the 17th of August morning (he admitted that in his evidence), which he obviously, under the terms of surrender could not do officially. Was not this close door conference in direct violation of the terms of surrender to be strictly followed by the vanquished? It was. But the fact is that the Japanese risked this close door conference and the fact also is that they had tremendous respect for Netaji.

(Remember in this connection Tojo's bowing whenever Netaji's name is mentioned in the Tokyo Trial and Count Terauchi's instructions to Tada that even against the orders of the Imperial Japanese Headquarters, he was prepared to help Netaji to escape. Had they had, under the circumstances, any other alternative but to give out this story of plane crash? They had none. The vanquished Japanese could not help Netaji, the greatest foe of the British, openly, but they were going to help him without arousing suspicion. They had no other alternative but to give out the crash story. This is the reason and that is why the details about crash story and the alleged death are so scrappy and at variance.

Sri S. A. Iyer had used the word "disappeared" with reference to Netaji's departure in the plan agreed upon both by the Japanese as well as by Netaji. It is to be considered what this word "disappeared" could actually signify and what the correct word in this connection should be. The plan was that the Japanese would remove Netaji to a safe zone, so as to prevent his arrest by the Anglo-Americans, after he was safe in Russlan territory and out of their clutches, the Japanese would make the announcement regarding Netaji.

As the Japanese were also surrendering to the same Anglo-Americans, they could, under no circumstances make an announcement that they had removed alive or had otherwise helped the disappearance of their erstwhile ally, Netaji, and who was an arch enemy of the Anglo-Americans and who were naturally very keen on arresting him. So, after having removed Netaji in a plane from his theatre of activities and away from his countrymen and beyond the control of the Anglo-Americans, the Japanese duly announced that Netaji had died, as a result of a plane crash. So, under such circumstances, the Japanese had no other alternative but to declare that Netaji had died and thereafter, the word "disappeared" used by Sri Iyer could only mean "died" and nothing else.

As Netaji was travelling in a plane, it was the easiest thing for them to announce that Netaji's death was caused by a plane crash accident and which is obviously a readily believable story and which was actually what they had announced.

The facts and circumstances narrated above, give a very clear, convincing and readily-believable story that, in accordance with Netaji's final request to be taken to Manchuria, with the ultimate object of going to Russia, the Japanese Government flew him in a brand new bomber plane from Bangkok to Saigon and then onward to Dairen in Manchuria, Netaji's final destination under the auspices of the Japanese.

# P. Some Informations Indicating Netaji's Arrival In Manchuria:

"On the 18th (August) morning a message was received in the Red Fort relayed from Trincomali from the American Naval Intelligence,.....stating that a twinengine bomber had been sighted and mentioning also the direction, altitude and speed of the aircraft. The Military Intelligence hurriedly looked into their records, held a Court Martial and quickly decided that this was probably an air craft maintaining the line of communication and it should be allowed to pass but it should be kept under observation from a certain distance-reasonable

distance. No importance was given to information at that time. [Proceedings of Netaji Inquiry Commission 1970, Page-3712]

['On the 20th night a message was received from Macao about Parachute landing of three persons in the area between Harbin and Tiensin.....Later on I heard from my colleagues in the CSDIC that this area where three persons were parachuted down was covered by the Japanese Intelligence Organisation under two Officers, namely, Itto and Indo-one was a captain and the other was a Lt. Colonel". [Proceedings of Netaji Inquiry Commission 1970, evidence of Capt. Biren Chakraborty, Page-3687].

"Later on when other pieces of information were pouring in, particularly when the statements of responsible INA Officers were being recorded, it was quickly ascertained that this particular message had a singular importance because this was the plane which took off with Gen. Shidei at 10-30 and which tallied with all information on record regarding the visit of Netaji and his party to the headquarters of Field Marshal Terauchi". [Proceedings of Netaji Inquiry Commission, 1970, Page-3713].

"Later on it was detected.....the plane was sighted in the air any time between 10 and 10-30. On that particular date it was not so important. It was taken as a message. Later on terrific weight was thrown on this." [Proceedings of Netaji Inquiry Commission, 1970, Pages-3723-3724].

# Q. British Government's Dilemma Regarding "Treatment of Bose".

Presumably, the Anglo-American Intelligence came to know that Netajira escaped to Manchuria. Knowing that, Wavell Government faced a serious dilemma regarding the course of their "treatment of Bose". Probably the "Top Secret Note" of Sir F. M. Mudie, Home Member of the Viceroy's Executive Council, was the startling revealation of the information of Netaji's 'escape' to Manchuria. They were very much afraid of Netaji's influence over the I.N.A. and entire people of South East Asia. So, they thought, "that in certain circumstances his presence in Russia would be so dangerous as to rule it out altogether".

As regards the treatment of Bose, six possibilities were suggested by Sri F. M. Mudie. One of those possibilities was "Leave him where he is and don't ask for his surrender......In many ways the easiest course would be to leave him where he is and not ask for his release. He might, of course, in certain circumstances be welcomed by the Russians. This course would raise fewest immediate political difficulties but the security authorities consider that in certain circumstances his presence in Russia would be so dangerous as to rule it out altogether". So, it can be said that 23-8-45 the Anglo-Americans knew that Netaji was in Manchuria at the relevent time. (Transfer of Power, Vol. VI).

From the available documents, informations and circumstancial evidence one might come to the conclusion that as early as 1944, Netaji had set up Intelligence Organisation at Harbin, Tiensin and Dairen in Manchuria to arrange for his escape to Russia.

An A. P. I. message issued from Madras on April 4 (1946) which says: "Subhas Chandra Bose is in Manchuria and doing well......Sevika, a vernacular paper of Malaya, recently carried a news item from London dated March 27, 1946 which stated that Bose was heard over the radio from Manchuria".

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# CONCLUSION

The last official stand taken by the office of Prime Minister of India on the floor of Lok Sabha was on 3rd September, 1978, when Shri Morarji Desai stated: "Shah Nawaz Committee and Khosla Commission hold the report of Netaji Subhas Chandra Bose's death following a plane Crash as true. Since then reasonable doubts have been cast on the correctness in the two reports and various important contradictions in the testimony of the witnesses have been noticed. Some further contemporary official documentary records have also become available. In the light of those doubts and contradictions and those records, Government find it difficult to accept that the earlier conclusions are decisive".

The claim in support of Netaji's death consequent to the alleged accident at TAIHOKU on 18-8-1945 was based almost entirely on the evidence provided by Col. Habibur Rahman, A. D. C. to Netaji, and the Japanese doctor, T. Yoshimi. Col. Rahman maintained, he accompanied Netaji on the reported fateful journey but survived the tragedy. Dr. Yoshimi submitted that he unsuccessfully treated Netaji in hospital after the reported incident.

Col. Rahman was twice interrogated by Allied Intelligence and he also appeared before the Shah Nawaz Committee. A chart of his statements on these three occasions indicate the rather inconsistent nature of his descriptions is enclosed earlier. The Combined Services Detailed Interrogation Centre (CSDIC) recorded on 25th March, 1946: "It appears that Habibur Rahman is not willing to come out with the truth". In fact, the Intelligence Bureau, in New Delhi categorically recorded on 19-5-1946: "Habibur Rahman's statement is unsatisfactory. The multitude on discrepancies in accounts of actual Air Crash as given first to Counter Intelligence Corps (CIC) in Tokyo and later to C. S. D. I. C. is being taken up".

The matter had indeed already been taken up at the highest level of the British Government on 25-10-1945. When the Prime Minister of the United Kingdom chaired a meeting to consider, among other items, what to do with Netaji in the post-war situation. The same day the British Cabinet discussed a confidential note sent by the then Viceroy of India, Lord Wavell regarding the finalisation of a policy towards "BOSE". (Transfer of Power, Vol. VI).

On 19-2-1946 the Intelligence Bureau in New Delhi communicated to its counter part in Singapore: "It is beyond doubt that he (Bose) had plans to go underground with a number of selected friends of his movement", (after the Japanese surrender in World War-II). Lord Wavell's diary of 24-8-1945 reveals: "I wonder if the Japanese announcement of Subhas Bose's death in an air Crash is true. I suspect it very much, it is just what would be given out if he meant to go underground". The then Commander of the Allied Forces in South East Asia. Lord Mountbatten's diary indicates that he received a despatch from the British Director of Military Intelligence in Chunking after the news about the Netaji's alleged death was broadcast from Tokyo, which said: "When Bose was preparing to leave Burma with his family by plane. Chinese intercepted Japanese message ordering Bose to separate from his family and remain in Burma. D.M.I's supposition is that though Bose's family were in the plane that crashed, Bose was not there and he subsequently escaped into Thailand." British Intelligence further believed that the Governor of the Afghan Province of khost had been informed by the Soviet Ambassador in Kabul that there were many Congress refugees in Moscow after the War and Bose was included in their number. The assessment being: "There is little reason for such persons to bring Bose into fabricated stories"

E. Bhaskaran, Confidential Assistant to Netaji in Bangkok, who lives in Madras, corroborates that a message was sent by Netaji in 1945 to the Japanese to convey to Moscow of his desire to go to the Soviet Union. Naeemur-Rahman, son of Habibur Rahman, who resides in Islamabad, claims that his father told him that he had accompanied Netaji on a visit to Tokyo two or three

months before the alleged crash in course of such a meeting had taken place between Netaji and Soviet Ambassador in Tokyo to finalise plans of the proposed trip to Russia.

All the above information casting doubts on the veracity of Netaji's death following a plane crash have surfaced in the mid-1970s and after as a result of declassification of British Government records under the 30 year rule and were, therefore, not presented as evidence before either the Shah-Nawaz Committee or the Khosla Commission.

Dr. Yoshimi's version of events also varies between three depositions he made on the subject. A chart highlighting these are also enclosed earlier Further more, there does not appear to be any documentary evidence of a plane crash having taken place at Taihoku on 18-8-1945. Besides, the cremation certificate said to be connected with Netaji's body is, strangely, in the name of a Ichiro Okura "a non-staff member of the Japanese Armed Forces". The birth day of the deceased in the certificate is given as 9th April, 1900. Netaji was born on 23-1-1897. Also, the cause of death is given as a "heart-attack". If Dr. Yoshimi's statement is correct, Netaji could only have died of third degree burns. The date of death in the certificate is given as 19-8-1945. According to Dr. Yoshimi, Netaji died on the night, August 18-8-1945. It has never been satisfactorily explained how the cremation certificate in question had any link with Netaji. If the intention of the then Japanese authorities was to conceal the story of Netaji's death, this did not tally with the Japanese Government's official announcement of his demise to the world.

A copy of the cremation Certificate is given overleaf.

# COM/5 (B) 25-9-73

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# SEAL

No.	Name of Disease	Date of Death Date of Permission Date of Cremation	Occupation	Sex	Parmanent Domicile Present Adddress	Name of Deceased	Date of Birth	Applicant Address	Name	
2640										
2641	Heart Attack	August 19, 1945 August 21, 1945 August 22, 1945	Non-Regular Staff member of Armed Forces	Male	No. 1, 2 Chome Dogenzaka, Shibuya-ku, Tokyo, No. 2, 3-Chome Nogi-machi, Taipei City	OCHIRO OKURA	April 9, 1900.	Unit No. 21123	Taneyoshi Yoshimi	
2642 Place of Burial Examined and authentic The Ministry of Foreign Municipal Crematory										
264	3				Sd/-					
2644					YASUTERU ASAHINA Secretary, Ministry of Foreign Affairs (Archives Section)					

It is certified that the above statement, abstracted from document on cremation permit is correct and true.

July 14, 1956.

Bureau of Health and Hygiene,
Taipeh Municipal Office. (SEALED)

P. C. Kar, an official in the Governor's House in Bengal when R. G. Casey was the Governor, claimed that the monitoring service at the Governor's House picked up three broadcasts of Netaji on the 31 metre band in December, 1945 and January and February, 1946. A note on this item was put up before Mr. Casey. This may be verified from records existing either with the Government of India or the official Records Office in Britain.

On 22-7-1946 Khurshed Naoroji one of Mahatma Gandhi's Secretaries, replying to a letter from Louis Fischer to Gandhiji, : remarked : "At heart the Indian Army is sympathetic with the Indian National Army (INA). If Bose comes with the help of Russia neither Gandhiji nor the Congress will be able to reason with the country." It is intriguing that almost a year after the reported autorash at Taihoku, Gandhiji's camp were apprehending Netaji's return to India from the Soviet Union instead of being convinced of his death. A photo copy of the original hand-written letter by Shri Naoroji is also enclosed herewith.

The 'INTERPRESS', a German Magazine, published an article on 28th October, 1949 under the caption, 'SUBHAS CHANDRA BASU' which stressed: "BABU BOSE: MANN HINTER DEN FRONTEN. (MAN BEHIND THE FRONT)"

"In 1945, when a chaos was prevailing over the whole of China on the victory of the Allied Powers, he (Basu) could have easily enter into the Soviet Boarder in exchange of immense gold Kept with him and leave for Moscow in a special plan to Keep himself underground in a lonely place there. Then what does the news about his secret journey by a Steamer to Irish Free State mean, of which the British Port-authorities were not at all aware, yet Mr. Galahar, the leader of the British Communist Party has referred to on the occasion of a discussion on the freedom-movement of India?

"Budha-Faced, veteran Yogi Shri Basu will, perhaps, once become the freedom-giver of not only India but also Asia.

"Another important event was his journey to Switzarland. Lenin had himself in Switzarland. The people of the world know the political thoughts of Sri Basu.

"His immense influence has spread all over India. If he remains alive and that is to be sure possible,—the whole world, then, one day, will hear again his speech." (Appendix-A)

Dr. Radha Binod Pal, the jurist of international fame and one of the Judges of the historic Tokyo War Crimes' Tribunal, wrote a letter (Appendix-B) on 14-2-53 to Shri A. M. Nair of Tokyo, in which he has written, "As a matter of fact, I could not accept as true the story of Netaji's death at Formosa. In any case, I feel that the whole thing demands a thorough investigation. Statements by individuals made here and there will not convince me as to the truth of the whole story given out. I have reasons to doubt its correctness".

As late as February, 1954 the American magazine 'National Republic' carried an article by Elliot Erikson, which asserted: "There is a strong possibility that Bose is alive. Numerous people report seeing him after his death, including a nurse in a Field Hospital who treated him for minor injuries. His body was never found and Allied Intelligence officials could find no evidence that he died in the wreckage of the plane he was supposed to have fallen in".

Documents on Netaji categorised as "top Secret" and had never been made accessible, are in the possession of the USSR National Archives, according to Dr. E. S. Yurlova of the Soviet Institute of Oriental Studies, Moscow. These may now be made available to genuinely interested parties in view of the prevailing policy of Glasnost in the Soviet Union. [Hindusthan Times, New Delhi, March 5, 1990].

### CLUES TO TRUTH:

- a) War records of the U. K. Government Relating to Subhas Chandra Bose and I.N.A. including the following documents:
- i) Report of C.S.D.I.C. signed by Capt. Biren Chakraborty on or 30/31st December, 1945 and counter signed by Col. Stevenson:

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- ii) Report of Figges., submitted to the Government of India on October 8, 1945 and Report of Intelligence Bureau, New Delhi, dated May 19, 1946 (No. C-5);
- iii) Documents on Netaji Categorised as 'Top Secret" are in the possession of the U. K. National Archives, which will be published after 125 yrs, from the date of Transfer of Power.
  - iv) Diary of Lord Mountbatten;
  - v) Anglo-American Intelligence Report;
- vi) Communication between Mac. Aurther and Lord Mountbatten relating to Subhas Chandra Bose;
  - vii) H.Q. Main File 273 Misc. I.N.A. 10 Misc.;
  - viii) File No. 249-INA-I and II(H) G.H.Q. case on Subhas Chandra Bose;
- ix) Secret No. 63/2/10 G. S. I(b) H.Q. SACSEA COMMISSION No. I, Saigon, 18th October, 1945;
- x) Report of SACSEA COMMISSION I, relating to Subhas Chandra Bose and I.N.A.;
  - xi) Allied Secret Report Sub: Subhas Chandra Bose and INA;
- xii) Report of SEATIC SECTION Inelligence Assault Unit. 7th IND DIV
  ALF SIAM with all the SEATIC DOCUMENTS 128;
  - xiii) Records of Tokyo Trial (War Criminals);
- b) War Records of U.S.A. relating to Subhas Chandra Bose and I.N.A. including the following documents:
- i) U. S. Naval Intelligence Report relating to Netaji's activities from 17th August to 25th August;
- ii) Communication from General Mac. Aurther to the U.S.A. President,
  Truman between August 17 to August 31, 1945 regarding Subhas Chandra
  Bose;
  - iii) Allied Intelligence Report on Subhas Chandra Bose and I.N.A.;
  - iv) Record of Tokyo Trial (War Criminals);

- v) Communication between Mac. Aurther and Mountbatten during the period of August 17 and August 31, 1945 relating to Subhas Chandra Bose.
- c) War records of U.S.S.R. in connection with Subhas Chandra Bose and I.N.A.
- d) War records of Japan from 1944 to August 31, 1945 in relation with Netaji Subhas Chandra Bose and I.N.A.
- e) War records of Germary (both East & West) from 1941 to 1943 relating to Netaji Subhas Chandra Bose and I.N.A.
- f) War records of China with special reference, presence and activities of Subhas Chandra Bose and I.N.A. personnels at Shanghai, Unan and Sinkiang during July and August, 1945.
- g) Prime Minister's Secretariat File during the period of Pandit Nehru including the following Secret Files:

1A, 2-A, 3-A. 6-A, 8-A, 16-A [ U. O. Note No. D/S-86 6, dated August 24, 1953, from P.M's Secretariat to Mohd. Yunus, MEA (SEA. BR), 17-A (U.O. Note No. D. 3788-8EA/53, dated August 27, 1953, from Mohd. Yunus US, ME A (SEA) to P. M's Secretariat, 27-A [Memo No. 2/53/1971/3/601 (151) dated October 13, 1953 from Mohd. Yunus. MEA (SEA) to P.M's Secretariat], 33-B (letter No. 20/62 (Accts) dated April 82, 1954, from the Joint Secretary, INA (Enquiry and Relief Committee, 82, Daryaganj, Delhi to the President), 34A (Rajya Sabha's Starred Question No. 560 dated September 28, 1954), 35-B (Note for supplimentaries), 37-A (Lok Sabha Starred Question No. 334 dated August 2, 1955), 37-BCD (Enclosures to S.No. 37-A). And Notes 11, 12, 13, 14, 15, 18, 19, 23, 24, 25, 26 and 29, File No. 23 (156)/51-P.M. [ Indian National Army (INA) in the Far East ], 23(II)/56-57PM [ INA Treasure], 12 (226)/56 PM [Investigation into the circumstances leading to the death of Subhas Chandra Bose ]

h) History of INA (by Late Dr. Pratul Chandra Gupta) lies with the Defence Department since long.

- 28
- i) Pandit Nehru's letter to Mr. Attlee, Prime Minister of the United Kingdom during 1945 to 1947, relating to Subhas Chandra Bose.
- j) Communication between Louis Fischer and Gandhiji, Louis Fischer and Khurshed Naoroji, Louis Fischer and President of U.S.A and also top Political Leaders of U.S.A., Louis Fischer and the Prime Minister of U. K. and other top Political Leaders of U. K. in relation to Netaji and India's independence.
- k) "Top Secret" documents relating to Subhas Chandra Bose are in the possession of the USSR National Archives.

In 1945-46 and even some years after the British left India, all news about the report of alleged incident of Taihoku were found to be very scanty, hazy and highly confusing. These news appared as more misleading than giving any direct clue to find the truth about the report of Netaji's alleged death. The Anglo-American investigating agencies could get hold of only a few douments like the four signals at Bangkok and five photographs from Tokyo. These agencies had, therefore, to rely more on the oral evidence from the Japanese and the INA sources than on positive documents to arrive at any definite conclusion about their findings.

However, in later years, when the post-war political complications, receded, more facts came to light first before Shah Nawaz Committee in 1956 and then before Khosla Commission in 1970. These facts have been carefully scrutinised and analysed in the foregoing chapters, and briefly summarised in the present one. After what have been found factually uptill now, they lead to one and only one conclusion, that the story of Netaji's alleged death at Taihoku was deliberately concocted by the Japanese authorities to enable him to reach the Russian territory across the Munchurian border.

After coming to know the fact of Bose's escape, the Wavell Government in Delhi in 1945 faced a serious dilemma regarding the course of their "treatment of Bose". They were confronted with many problems: Will they ask the country which kept Bose in secret custody to surrender him to the British authority? After

getting Bose in their hands will they try and hang him? Or, will they intern him either in India or in some remote island in the Indian Ocean? The Home Member of the Viceroy's Executive Council, Sir Mudie, prepared a 'Note' for Wavell incorporating various suggestions for "treatment of Bose". It was prepared on August 23, 1945, i.e., 7 days after the announcement of Bose's death by the Tokyo Radio. The Viceroy of India in 1945 approved this 'Note' and carried it to London for its final approval by the British Cabinet. The U.K. Cabinet, with Mr. Attlee in the chair, cleared this 'Note' on October 25, 1945, i.e., 67 days after the report of Netaji's alleged death. This 'Note' included various alternatives "regarding treatment of Bose": namely to "(a), bring him back to India and try him either for waging war or under the Enemy Agents Ordinance; (b) have him tried by a Court in Burma or Malaya for waging war against the King in that country; (c) have him tried by a military court outside India; (d) intern him in India; (e) intern him in some British possession i.e., Seychelles Islands".

After analysing the pros and cons of all these suggested measures to punish and execute or intern Bose,-the 'Note' finally decided to:

"LEAVE HIM WHERE HE IS AND DON'T ASK FOR HIS SURRENDER......
IN MANY WAYS THE EASIEST COURSE WOULD BE TO LEAVE HIM WHERE
HE IS AND NOT ASK FOR HIS RELEASE. HE MIGHT, OF COURSE. IN CERTAIN
CIRCUMSTANCES BE WELCOMED BY THE RUSSIANS. THIS COURSE WOULD
RAISE FEWEST IMMEDIATE POLITICAL DIFFICULTIES".

Could there be any other more definite revelation than the above 'Note' that the British Government knew quite positively where Netaji escaped and where he was compelled to stay for the reason beyond his control? Notwithstanding this positive information regarding the whereabouts of Bose, the British Government considered it politically more prudent or expedient for them not to publicly disclose the matter at that time, nor to ask as well for his hand-over to them for his trial for waging war against the 'king' but "to leave him where he is". For 30 years the British Government withheld this explosive information from the

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Indian people. They must have done it for the sake of their Imperialist interest, but what about our own Government,-the first Government of Free India? What did they do for Netaji? Was it unknown to them where Netaji was compelled to stay for unavoidable circumstances reason beyond his control?

On being fully conscious about the whereabouts of Netaji, the then Indian leaders deliberately suppressed the facts and circumstances leading to his disappearance out of vengeance and at the same time, for their political gain. The damage done by the predicessors of the present Prime Minister of India in regard to the investigations relating to the mysterious disappearance of Netaji is not beyond salvage. A fresh impartial 'investigative enquiry' and an all-out effort of the present Prime Minister to that effect can still unearth the hitherto untolostory.

#### APPENDIX- A

#### **INTERPRESS**

Ausqabe Politik 335/1949

(Internationaler Biographischer Pressdienst.)
(International Biographic Press Service).

#### SUBHAS CHANDRA BASU

The fact is being gradually embodied from the contemporary events that Subhas Chandra Basu, the Indian Revolutionist, who was declared dead in an air-crash after the Second World-War, is waiting for an opportunity to hold his grip over the political back-ground of Asia.

#### BABU BOSE: MANN HINTER DEN FRONTEN. (MAN BEHIND THE FRONT.)

There has been a nuclear explosion by the side of India in October last, which is of a political nature and experimental only. But it has been inevitably resulted in. It came to be known within a few days by a radio announcement that Subhas Chandra Basu, the lost Indian Revolutionist, might deliver a speech over the Communist Radio of Peking. Of course, nothing has been heard after this mysterious announcement. But nobody said that he had a doubt that Shri Basu was actually alive. One thing more; just at that time, when such a type of epochmaking political explosion took place at the north of Himalayas, Shri Nehru who was once a colleague and at present in opposition to Shri Basu was found to be staying in Washington at the invitation of President Truman. Is this just a sudden event? Most of the Americans hoped that Shri Nehru would keep himself mum about this, Shri Nehru has done this. Of course he has said that he is ready to go to Moscow also if he be invited to go there. Did he understand from the outset of this incident that this event was a prologue for the advent of a man with a massive nuclear power? As Lenin, in the revolutionary moment of 1917, reached Russia singling out Germany as his destination, Shri Basu also has once more adopted that measure for the interest of India.

It was this Basu who appeared in Tokyo directly within a year after his meeting with Hitler in May, 1942. The mystery how this dauntless expedition became possible in this war-rayaged Eastern Hemisphere of the world, has not yet come to light. But it was sure that Hitler had helped him by providing longranged aeroplanes, U-Boats, Blockade-brakers and many other war-materials. Shri Basu, perhaps, considered the U-Boat expedient for his journey. The way of his disappearance from India secretly, in January, 1941, was dangerous too. Only at the age of sixteen, school student Shri Basu had once left for the Himalayas as a lonely and helpless visitor and roamed about from temple to temple in search of the eternal truth. This anti-British man had acquired the art of disguise accurately, while he was a student at the University of Cambridge. During his stay in Vienna between 1932 and 1935, he had acquired the art of face make-up from an Indian residing abroad. A picture, entitled "The Tiger of Ishanpur" was being prepared in Germany under the direction of that man at that time. This skill became useful to him, when, in February, 1941, he succeeded to reach Kabul with a view to meet the German Ambassador in Afghanistan throwing dust in the vigilant eyes of the Indo-British rulers, in spite of the warrant of arrest against him. At last the Italian Embassy assigned an Italian name to him and gave him a false passport as an Italian national.

Ten years before this incident, he was once a guest of Mussolini during his journey from Vienna to Rome. But this time, he was eager to meet Hitler and Ribbentrop as soon as possible. His first destination was Berlin. He crossed the border of Germany as an assistant of a German Engineer and arranged for visiting Moscow as a foreign tourist. The journey to Moscow through the Caucasus was decided, be it well or worse. The Indian Shri Basu did not know Italian but could understand Russian a little. But the Soviet poeple thought him to be a veteran through his gesture and posture. He did not utter a single word in the Passport Department and had spent a week in a comfortable room of a train, taking, tea, milk, vodka and large amount of beef. This was a matter of immense mental strength for a Caste-Hindu like him. But nothing such was improper to the superstition-less revolutionist Shri Basu. It was known to the Russians that he deeply studied Bolshevism as well as Facism. And both Mussolini and Stalin were his ideals. So, Kremlin greeted him warmly. Not a single word was uttered against him from Moscow, when he extended his support to Hitler and the Japanese. In the summer of 1933, he pronounced that no Asian could lend his support in favour of Nazi Policy. But in 1942, when he put forward the proposal for the freedom-movement to the nation, he was convinced that Germany and Japan, the enemy of the British, would naturally lend their support to the Indians fighting for freedom.

But he did not find days well in Berlin. He went on waiting for months in the seclusive room of a hotel with the hope to get some response. But he beame utterly disappointed when he saw that the Soviet Union was attacked by war-monger Hitler. He remarked, "In this world war, this event is the gross error". Shri Basu then put some faith in Japan only. The participation of Japan in the Second World War suddenly brought about an unimaginable change in the South-East Asia, and, Shri Basu had played a great role in this political game of the world. He invaded Singapore and formed the Indian Revolutionary Government there. Accompanied by the Azad Hind Fauz equipped with Japanese arms and ammunitions, he marched towards India through Burma. This was well-known to him, as he had passed through it as a Prisoner many times on his way to the Mandalay Jail.

The Revolutionary Army marching towards the Indian border had not been taken by the Indians as traitors, rather, was welcomed as heroes. And their 'Leader' was Shri Basu himself.

There is a proverb in India, "A person who is declared dead before his death gets a prolonged life". There was, beforehand, a news at the outset of the last war, that Shri Basu had died in an air-crash. This False-News brought a lot of gariands and condolence-letters to the family of this man, who was already officially declared as a traitor, from every correct of the country. In spite of this, Gandhi could not agree with Mr. Nehru, the then leader of India, on this discussion. Gandhi remarked about this dangerous man that, "Whatever he may be, he is not an enemy of our country. He has helped to a great extent to get the freedom - movement advanced". Having heard this sad news in April, 1942, Gandhi wrote in a condolent letter to the mother of Shri Basu, "He is the great and heroic son of India". But after a few days, his voice was heard over radio.

Shri Basu has been again announced to be dead after the Second World War. This announcement is also the result of the joint proclamation of the Government and the Enquiry Commission of the Allied Powers. Though in a Broadcast from Tokyo, it has been announced that Shri Basu was wounded and was later dead in an air-crash on his way to Formosa from the Taihoku airport, none in the world has paid any heed to this news. No one in

India has at all believed it. On 21st October, 1946, after a year of this accident, the Inquiry Commission of the Allied Powers proclaimed the decision that Shri Basu had actually passed away on 18th August, 1945, in a military hospital in Formosa. But man like Gandhi declared later, that, according to their views, Shri Basu was still alive. The Government of India said that they could not declare Shri Basu to be dead. The elder brother of Shri Basu has remarked at a National Conference of India, "I know nothing about this". No news was collected from the citizens of Japan, who were in Tokyo, till the day when the American soldiers entered Tokyo. The bodyguard of Shri Basu saw a large and mysterious box with him on the day of his last departure.

No one has seen the body to be burning. Many experienced men of the East-Asia know that Japan announced many eminent persons to be "dead by air-crash" at the time of surrender. Subhas Chandra Basu, at the age of fifty, was man with good health, psychologically strong and a fore-seeing politician. Immediately after his joining with the Japanese, he had a doubt as to the result on the joint expedition of the Japanese army and his army. It can not be ignored that this strong and forseeing man did not think for future. Was it now known to him how Moscow would utilise the Renaissance of Nationalism in Asia in the greater political game at present or in future?

In 1945, when a chaos was prevailing over the whole of China on the victory of the Allied Powers, he could have easily enter into the Soviet Border in exchange of immense gold kept with him and leave for Moscow in a special plane to keep himself underground in a lonely place there. Then what does the news about his secret journey by a Steamer to Irish Free State mean, of which the British Port-authorities were not at all aware, yet Mr. Galahar, the leader of the British Communist Party has referred to on the occasion of a discussion on the freedom-movement of India?

Millions of people in India still believe that there will be a change after an epoch, the result of which will make this country once more a heavenly one. BUDDHA-FACED, VETERAN YOGI SHRI BASU WILL, PERHAPS, ONCE BECOME THE FREEDOM-GIVER OF NOT ONLY INDIA BUT ALSO ASIA.

Another important event was his journey to Switzerland. Lenin had himself in Switzerland. The people of the world know the political thoughts of Shri Basu.

His immense influence has spread all over India. If he remains alive and that is to be sure possible - the whole world, then, one day, will hear again his speech.

28.10.1949

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APPENDIX B

CALCUITA-6

14th Feb. 1953.

Dear Mr. Nair,

I am thankful for your letter dated the 5th instant.

It is really surprising that my name should be used in that manner. I did not go to any temple either with or without the ambassador to see the alleged ashes. As a matter of fact I could not accept as true the story of Netaji's death at Formosa. In any case I feel that the whole thing demands a thorough investigation. Statements by individuals made here and there will not convince me as to the truth of the story given out. I have reasons to doubt its correctness.

I am glad that Mr.Shimonaka and Mr.Tanaka are doing their best to educate the public mind of Japan. Satyen has come back. He tells me that Mr.Shimonaka has already engaged a house near Yokohama for starting the school that I suggested during my last visit. I shall indeed be happy if the scheme materializes.

Kindly remember me to all my Japanese friends and convey to them my best regards.

With kindest regards,

Tashebind Al

(RADHABINOD PAL)

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# COUNTRY MUST KNOW WHAT HAPPENED TO NETAJI

-Samar Guha



# COUNTRY MUST KNOW WHAT HAPPENED TO NETAJI

What really happened to Netaji Subhas Chandra Bose? Did he really meet his end in an aircrash at Taihoku in Formosa, on August 18, 1945? The news of his alleged accident was broadcast not in the form of any official communique either by the civil or the military authority of Japan. Japan was not yet occupied by the US Army, - its civil and military authority remained in tact. It was the news of the Domai Agency which was broadcast by the Tokyo Radio. In its first broadcast, 5 days after the alleged aircrash, it was said that the dead body of Subhas Chandra Bose, the Head of the Provisional Government of Free India, was flown to Tokyo. But subsequently in another broadcast it was reported that his body was cremated in Formose.

Palpably, the broadcast appeared as nothing but a cooked-up story as it was not substantiated by any positive testimonials or documents. Neither Mahatma Gandhi nor Lord Wavell, the Viceroy of India at that time, believed this news broadcast as true. Mahatma Gandhi along with Pandit Madan Mohan Malavya wired Bose family at Calcutta, 'Not to perform sradh ceremony, but to hold mild prayer.' Lord Wavell recorded his reaction in his 'Diary', 'I wonder if the Japanese announcement that Subhas Chandra Bose's death in an aircrash is true. I suspect it very much. It was just what should be given out if he wanted to go underground.' No Government, either of Japan or Wavell nor of the U.K. or the USA at that time or anytime thereafter officially confirmed the report of death of Subhas Chandra Bose.

# Gandhiji believed - 'Subhas is Alive'

Gandhiji went on telling the Indian people that he didn't believe Netaji's death news. On 30 Dec 1945 he told us, the Bengal Detenues, most of whom were the colleagues and associates of Netaji Subhas Chandra Bose, in Dum Dum Jail of Calcutta: 'If someone shows me ashes even then I will not believe that Subhas is not alive. He is alive, - hiding somewhere'. He spoke in Hindi and remained with us for over an hour. Next day, on January 2nd, 1946, he told the press at Contai of Bengal: 'I believe Netaji is alive. He is hiding somewhere.' Gandhiji repeated his belief many times afterwards. After meeting Col. Habibur Rahman in the Red Fort Cell, who claimed to be the lone Indian who travelled with Netaji in the same plane that allegedly crashed, Gandhiji said 'Habib! whatever you may tell me to the contrary, I still believe Netaji is alive.' Later Gandhi told pressmen: 'Habibur Rahman made a soldier's statement to me.'

Why Gandhiji was so insistant to disbelieve the Japanese report of Netaji's aircrash death? Was it because of his 'inner voice'? Many revealing facts came to be known 10 years later which positively indicated why Gandhiji said so. In 1991 an American document found in the archives of the Princeton University positively revealed why Gandhiji believed that 'Subhas is hiding somewhere'.

and

#### Reaction of the British Government

What was the further reaction of Lord Wavell, India's Viceroy in 1945-46? A month after the record of his first reaction he noted again in his 'Diary': 'According to the Japanese of Signapore, Subhas Chandra Bose is definitely dead, but I shall be skeptical till further confirmation.'

After hearing the Japanese broadcast on August 23, 1945, Lord Wavell immediately sent a mixed investigating team of the British and Indian experts to 'arrest Bose - dead or alive' and make a thorough probe into the whole affairs behind the Japanese story of Bose's death.

What was the findings of this Wavell team was not fully reported. But the British Govt. of India cryptically leaked out to the press that Bose died in the reported aircrash. However, what was the exact view of the Wavell Govt. about Subhas Chandra Bose, was secretly despatched to the Attlee Govt. in UK after 67 days of the reported aircrash by its Home Secretary, Mr. R.F.Mudie. It was marked 'Top Secret' and this report was published 30 years after in 'Volume VI' of the British document 'Transfer of Power, 1942-47'. In his lengthy report on Bose Mr. Mudie's confidential despatch noted inter-alia as regard the 'treatment of Bose' these were the following possibilities:

- a) Bringing back to India and try him either for waging War or under the Enemy Agent Ordinance :
- Have him tried by a Court in Burma or Malay for waging War against the King in that country;
- c) Have him tried by a Military Court outside India;
- d) Intern him in India;
- e) Intern him in some other British possessions, e.g., Seychelles islands;
- f) Leave him where he is and not ask for the surrender.'

After analyzing all the eventualities about these alternatives the report concluded 'in many ways the easiest course will be to live him where he is and not ask for his release. Of course, he might in certain circumstances be welcomed by the Russians. This course would raise fewest immediate political difficulty.'

Neither the Wavell Govt. of India nor the Attlee Govt. of U.K., after coming to the above conclusion, made any official confirmation about the reported death of Subhas Chandra Bose, though he was marked as the enemy number one of their Indian Empire. They deliberately kept silent about the report of Subhas Bose's presence in Russia.

#### Pandit Nehru's Preverification

Everybody in India in 1945-46 disbelieved the Toyko story of Netaji's death. Moulana Azad, the then President of the Congress declined to make any obituary reference in memory of Bose in the first AICC Session held at Bombay on Sept. 23, 1945 after the Quit India Movement, saying, 'The circumstances in which the news of the death of Bose has reached us and the sources responsible for announcement don't make certain that Bose is in fact dead.'

An American journalist of Chicago Tribune, Alfred Wag, told Pandit Nehru on August

29, 1945 in Delhi that after the Japanese broadcast 'Bose was alive and seen 4 days ago in Saigon'. On Sept 11, 1945 Nehru himself told API at Jhansi, 'Like many other people, he did not believe the story about the reported death of Subhas Chandra Bose... I have received a number of reports, which have raised me in great doubt and I disbelieve the authenticity of the news'.

Every patriotic Indian expected that after coming into power on August 15, 1947 Pandit Jawaharlal Nehru, the first Prime Minister of Free India, would consider it as his first national duty to institute a high level investigation to find out what really happened to Netaji Subhas Chandra Bose. But he was found contrarily to adopt an unthinkable attitude of deliberate refusal to entertain any request for any inquiry about Netaji. Why after his own public statement that he disbelieved the news of Subhas Chandra Bose's death Pandit Nehru made a strange volte-face to adopt a completely reversed attitude?

The answer to it can be found in the article of a former Editor of the Gujrati daily 'Janmabhumi' late Amritalal Seth, who accompanied Pandit Nehru, when he visited Singapore in 1946 as the guest of Admiral Mountbatten. Further evidence came from the text of the 'Nehru Oration' by Mountbatten. Shri Seth informed Sarat Chandra Bose immediately after coming back to India from Singapore, that Mountbatten warned Nehru that, 'If he played up Bose and his INA he will be taking the risk of presenting India on a platter to Bose when he returned back to India'. Yes, Panditji started to instantly comply with the advice of Mountbatten from Singapor itself. He shockingly cancelled his already agreed programme to place a wreath at the spot of the INA Memorial that was demolished by the British Army soon after reoccupation of Singapore. Returning home from Singapore Pandit Nehru was found to shut his mouth completely about anything that concerned Netaji and his INA.

#### Inquiry by Shah Nawaz Committee

After coming to power as the Prime Minister of Free India, Pandit Nehru, adopted a policy of abject indifference and negligence, nay a covert opposition to everything about Netaji and his heroic legends. Pandit Nehru's worst stance was his stubborn opposition to all requests and appeals made in the Parliament and outside for instituting a judicial inquiry about disappearance of Netaji. For 10 years he turned down all such appeals. But when the citizens of Calcutta decided to set up a non-official inquiry committee in 1956 with Dr. Radha Binode Pal, an internationally reputed jurist of the eminence of Tokyo Trial as its Chairman, Pandit Nehru suddenly announced to form an inquiry committee with Shah Nawaz Khan as its Chairman having no judicial status for the inquiry. But strangely, when even such a 'statement-collecting-committee' was conducting inquiry, Panditji forestalled the very objective of its inquiry by making a statement in the Parliament in which he said: 'I have no doubt today of the fact of Netaji Subhas Chandra Bose's death, is, I think settled beyond doubt'.

How could Shah Nawaz Committee dare to unsettle this 'Settled fact beyond doubt' of Pandit Nehru? This inquiry, this, queerly concluded in its findings: 'At no stage was the casket containing the ashes sealed, no formal receipt issued, nor again continuous watch kept over it. So, although there cannot be absolute certainty about it, nevertheless, ashes kept in the Renkoji temple, Tokyo, are the ashes of Netaji Subhas Chandra Bose. If ashes are taken to be genuine, Renkoji temple cannot be obviously the final resting place.' What an absurd findings! Can the issue of death of a man like Netaji Subhas Chandra Bose be confirmed by not being 'absolutely certain', but by questioning it with 'if'?

Shah Nawaz Committee, however, helped to have access to some very vital documents that were kept secret for 10 years after 1947. These documents showed that according to the intelligence report, in all probability, Netaji took shelter in Soviet Russia under the cover of a cooked-up story of his death. These documents also indicated that Gandhiji and Panditji received a letter from Netaji asking Nehru for making arrangement for his repatriation to India. Particular imports of these documents will be discussed later. But it should be mentioned here that Pandit Nehru suppressed all the vital intelligence reports from the public till 1956.

In 1951 Panditji had sent S.A.Ayer, a former Publicity Minister of Netaji's Azad Hind Govt., to Tokyo to secretly contact Col. Tada to ascertain from him the report about Netaji's death. Genl. Isoda and Col. Tada, were attached to the Japanese wartime Military Headquarters at Saigon. They were the two high ranking Japanese officers who were deputed to prepare and execute the escape-plan of Netaji by Field Marshall Terauchi, highest in command of the S.E.Asia Jap Army. In his confidential report to Nehru, Ayer stated: 'This time I could gather very important information. Col. Tada told me that after the end of the war when Japan surrendered, Terauchi took all responsibility to help Netaji and asked him to go to Kaka Bose (His Excellency Bose) and tell him to reach Russian territory — all help will be given to him.'

In his statement in Lok Sabha, Panditji mentioned other parts of Ayer's confidential report to him which appeared to lend support to Tokyo broadcast, but this vital part was withheld from the House.

Pandit Nehru's conscience, however, appeared to prick during the last few month before he passed away. Although he repeatedly stated in the Parliament that 'Netaji's death was a settled fact beyond doubt' he wrote to Suresh Chandra Bose, an elder brother of Netaji on May 13, 1962 in reply to his letter that 'You asked me to send you proof of Netaji Subhas Chandra Bose's death. I can't send you any precise and direct proof.....' Again just about a month before his death replying to a letter from Amiya Nath Bose, a nephew of Netaji, Panditji wrote: 'I agree with you that something should be done to finalise the question of Netaji's death.' Ah! When it was the time for proper investigation, Nehruji delibarately stalled it!

# **Confusing Japanese Documents**

Japan is the only country which could definitely say or unsay if the report of the plane crash was true. Some documents and information placed before the Shah Nawaz Committee by the Japanese authority revealed a few vital facts:

Firstly, Japan didn't officially make any statement either by its civil or military authority to confirm the report of plane crash on August 18, 1945 involving Netaji Subhas Chandra Bose. Domai News Agency, a private body, made it over the Tokyo Radio. Later S.A.Ayer, in course of his deposition before Shah Nawaz Committee, told that on request from the Japanese authority at Tokyo, the text of the broadcast was prepared by him and not either by the Japanese Govt. or the Domai News Agency.

Secondly, the plane which reportedly crashed carried 13/14 passengers of which the Pilot, Co-pilot, Radio Engineer, Genl. Shedei, Netaji, — these five persons, who were required to fly to Dairen, reportedly died whereas all the other passengers miraculously survived with minor injuries, although the plane was reported to have had nose-dived, caught instant fire and broke into two parts. Non-Official, Japanese Expert Committee contradicted such a report as 'absurd'. After vertical nose-dive crash of



a burning plane from a sufficient altitude such selective survivals and selective killings were unthinkable according to their findings.

Thirdly, Japanese authority produced three – four photographs – first one of bandaged Habibur Rahman sitting by the side of a casket, second one of an urn reportedly carrying the ashes of Bose and the third one of a canvas-covered bundle marked as containing the alleged death body of Bose. If the Japanese could take trouble of getting four photographs why another photograph of uncovered body of Bose could not be taken if such a body existed at all? An uncovered body of Bose would have convinced each and everybody of India and of the Anglo-American Power that Bose really died in the aircrash. One such single photograph could have settled all doubts and all controversies about the report of Bose's death. Japanese authority failed to answer convincingly why they could not take a photograph of uncovered body of Bose if he really died.

Fourthly, Japanese Foreign Ministry submitted a cremation certificate of Bose issued by the Taihoku Municipality. It was written in Japanese script. On rendering this certificate into English it was strangely found that it was issued for a Japanese soldier, Ichiro Okura, who died of heart failure. Okura's age, the cause and date of his death and cremation, — nothing tallied with the report of the Tokyo broadcast about 'Chandra Bose.'

Fifthly, although it was stated that Genl. Shedei also died at Taihoku on the same date as a result of the aircrash, but his pension certificate showed that he died in the warfield. Genl. Shedei was appointed to command Japanese Kwantang Army in Manchuria after Russia attacked this Jap territory. Japanese could not produce any record of death and cremation certificate of Genl. Shedei supporting his death at Taihoku.

These few Japanese documents left rather indicative clues to infer that the report of aircrash was just a cooked-up story to cover Netaji Subhas Chandra Bose's escape to Russia.

#### **Futile Khosla Commission**

Though the Indian people didn't accept the findings of the Shah Nawaz Committee and Panditji himself also agreed that 'something should be done to finalize the question of Netaji's death' - nothing was done by the Govt, till 1967. In this year about 350 members of Parliament belonging to all parties signed a memorandum and submitted it to the Central Govt. urging for a fresh judicial inquiry about Netaji. In no time before, such a memorandum was ever signed by the majority members of the Parliament for submitting to the Govt, for a national cause. However, it took over two years' persistent agitation to make the Govt, of India agree to set up on July 11, 1970 a 'one-man judicial Commission to inquire into disappearance of Netaji Subhas Chandra Bose,' A retired Chief Justice of Punjab High Court was appointed its Chairman. After 4 years of unnecessarily prolonged sittings of the Commission, Justice Khosla submitted his report to the Govt. on June 30, 1974. Khosla Commission's Report appeared just as a chimera of a judicial findings, - worse than the findings of the Shah Nawaz Committee, Mr. Khosla made no effort to search for national and international documents connected with the Netaji affairs, made no analysis of the Japanese documents produced before the Commission, brushed aside the evidence of the 84 Indian witnesses giving cursory attention to them while devoting his attention mainly on the evidence of five Japanese witnesses claiming as co-passengers of Netaji and the fifth one of a doctor, who said to have treated

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injured Bose. Though none of them could produce any document to verify their identities, statements and claims. Mr. Khosla treated them as 'truthful witnesses' to draw his conclusion exclusively on their evidence that Bose died after the reported aircrash.

Worst still, Mr. Khosla exceeded all his limits in making political commentary in unbelievably derogatory terms by calling Netaji a 'Puppet', a 'Pawn', a 'Quisling' of Japan, etc. in his report. In his report atleast in 27 places he made outrageous remarks denigrating the revolutionary personality of Netaji. This man, violating all judicial norms, was seen to bring a 'present' for Mrs. Indira Gandhi while returning from Taiwan and write her biography while working as the Chairman of the Commission. Further, before his report was placed on the table of Lok Sabha he published a book calling it 'Last Days of Netaji'. Mr. Khosla was severely indicted by the Calcutta High Court for his derogatory remarks about Netaji. He also faced a Privilege Motion in Lok Sabha for violating the terms of the Inquiry Commission. But he somehow escaped harsh punishments by offering unconditional apology to the High Court and the Speaker of Lok Sabha. Thus, because of his tendentious behaviour of the Chairman of the Netaji Inquiry Commission, the judicial and moral basis of his findings were vitiated in such a way that its whole objective was completely frustrated.

#### Findings Rejected by the Morarji Govt.

Because of the sudden imposition of Emergency in June 1975 and arrest of Opposition leaders, including the present writer, the report of Khosla Commission was debated in Lokabha as late as in 1978 after the formation of the Janata Govt. A documentary book, 'Netakabha or Alive?' written by the writer was released by the then President of India Shri N. Sanjeeva Reddy. The long debate and the documentary materials published in the book convinced a man of very rigid outlook like Shri Morarji Desai, that the two inquiries about Netaji failed to serve the purpose of the investigation. In reply to the debate, Prime Minister, Shri Morarji Desai said in a statement in Lok Sabha on Sept 3, 1978:

'Shah Nawaz Committee and Khosla Commission held the report of Netaji Subhas Chandra Bose's death as true. Since then reasonable doubts have been cast on the correctness reached in the two reports and verious important contradictions in the testimony of the witnesses have been noticed. Some further contemporary official documentary records have also become available. In the light of those doubts and contradictions and those records, Government find it difficult to accept that the earlier conclusions are decisive.'

It was very vital statement. Mrs. Indira Gandhi discarded the findings of the Shah Nawaz Committee while instituting Khosla Commission in 1970. And now in 1978 Shri Morarji Desai rejected the findings of both the inquiries to reopen the issue of disappearance of Netaji. It now, consequently, devolved on the Morarji Govt. to find out, - then, what really happened to Netaji? Morarjibhai suggested an 'Investigative Inquiry' in an effort to resolve the Netaji issue as he felt that after so many years any further judicial inquiry would not serve the main purpose. But before his suggestion could be materialized the Janata Govt. fell.

#### Decision of Investigative Inquiry by the Chandra Sekhar Govt.

The whole issue of renewal of Netaji inquiry remained muted for about 10 years. After formation of the Janata Dal Govt. the issue was taken up with the Govt. of Shri V.P.Singh, who asked his Minister of External Affairs, Shri I.K.Gujral to 'look into the matter'. But before any step could be taken, V.P.Singh Govt. had to quit. The matter was again taken up with the Govt. of Shri Chandra Sekhar. In both these moves the President of India, Shri R.Venkataraman very patriotically extended his moral support to the cause behind the inquiry.

In fact, he took initiative to ask both Shri V.P.Singh and Shri Chandra Sekhar to fulfil the national duty to find out what really happened to Netaji. In a letter on May 29, 1992, The President assured that he will again pursue the matter of Investigative inquiry about disappearance of Netaji with the present Prime Minister, Shri P.V.Narasimha Rao. His letter:

#### PRESIDENT REPUBLIC OF INDIA

New Delhi, May 29, 1992.

Dear Shri Samar Guha,

I am in receipt of your letter dated May 27. I shall pursue the matter with the P.M.

With kind regards,

the state of the state of Yours sincerely,

R.VENKATARAMAN

Prof. Samar Guha, 8/2, Central Park, Calcutta - 700032.

Finally, On March 26, 1991 the Deputy Minister of External Affairs informed the writer in a letter: 'The Ministry has initiated a High Level Investigation into the secret documents on disappearance of Netaji Subhas Chandra Bose. We are awaiting results of our inquiry. We shall keep you informed about any further development.' His letter:

DEPUTY MINISTER
FOR EXTERNAL AFFAIRS
INDIA

No.489/DM/91

March 26, 1991.

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Dear Prof. Samarjee,

- 1. Kindly refer to your letter of 26th February, 1991 addressed to Shri Devi Lal concerning high level investigation into "secret documents" on the disappearance of Netaji Subhas Chandra Bose.
- I would like to assure you that this Ministry has already initiated follow-up action in this regard. We are awaiting results to our enquiries.
- We shall keep you informed of any further developments.

With kind regards,

Yours sincerely,

(DIGVIJAY SINGH)

Prof. Samar Guha,
Ex-Member of Parliament,
8/2, Central Park,
CALCUTTA - 700032.

But because of resignation of Chandra Sekhar Govt. this laudable decision about the Investigative Inquiry remained hanging in uncertainty.

#### A National Task for Shri P.V. Narasimha Rao

It appears that the present Prime Minister, Shri P.V. Narasimha Rao has not been posted with all facts about the rejection of the findings of the Shah Nawaz Committee and Khosla Commission and the subsequent decision of the Chandra Sekhar Govt. to institute an 'Investigative Inquiry' about the issue of disappearance of Netaji. Otherwise the Govt. would not have used the word 'Posthumously' while announcing Bharat Ratna for Netaji. Now, it is a legal, moral and sacred partriotic task for Narasimha Rao Govt. to effectively work-out the decision of the Chandra Sekhar Govt. to institute a 'High level Investigative Inquiry about disappearance of Netaji Subhas Chandra Bose' and to 'finalize', to quote Pandit Nehru, the poignent issue that remained hanging about the fate of the epic hero of the Indian liberation.

#### An Investigative Inquiry, - Why?

Why an Investigative Inquiry instead of another public inquiry about Netaji? Only four Japanese, - the Chief of the Staff of the Japanese Army of the Tokyo Headquarters, Field Marshall Terauchi of S.E.Asia Japanese Command at Saigon, Genl. Isoda, the Chief of the Hikari-Kikan and Col. Tada, a trusted officer of Terauchi's Headquarter, were the four key figures, who programmed and executed the escape-plan of Netaji to convey him to Russian territory of Siberia across the Manchurian border. All these principal persons are now dead. Political situation in Japan has now changed so much, that few people of its administration after 47 years can be expected to recollect the episode of the political move around the movement of Subhas Chandra Bose after fall of Japan.

Now mainly the Secret documents, reports, informations and findings of various inquiries that are likely to be available in the archives of Japan, UK, USA, Taiwan and most importantly of former the USSR, now the Russian Federation, can provide positive facts about what really happened to Netaji.

Soon after the report of the aircrash involving Netaji, the Wavell Govt. of India, Adml. Mountbatten of S.E.Asia Allied Command and Genl. Mac Arthur of the U.S.Pacific Army-instituted three 'immediate inquiry' separately to verify the truth about the alleged aircrash death of Subhas Chandra Bose. After reoccupation of Formosa (now Taiwan), on orders from Genl. Chiang-Kai-Shek, the Mayor of Taipei also conducted an inquiry to verify whether any air accident took place at Taipei (Taihoku) airport on August 18, 1945. And if so, whether Subhas Chandra Bose was in it.

None of the reports of these inquiries or their findings have been published. Only Wavell Govt. non-officially leaked-out to the press that its inquiry found that the report of aircrash death of Subhas Chandra Bose was correct. However, this was only for the consumption of the Indian public. Neither the Govt. of Wavell nor Mountbatten nor the Govt. of U.K. at any time officially confirmed Netaji's death. What the Wavell Govt. came to know after its investigation was secretly communicated to the U.K. Govt. in the form of 'Top Secret' despatch by R.F.Mudie, the Home Member of the Viceroy which has already been quoted earlier. This report informed Attlee Govt. that under the cover of the story of his death Bose took asylum in Russia.

#### Mountbatten's Inquiry Report

Mountbatten's inquiry report was never published, nor its findings were made known. A few pages of Mountbatten's Diary were given to the Shah Nawaz Committee in which it was

found that the British Investigation Officer observed: '...... it appears that the whole thing is suspicious.... The description of the funeral is more suspicious.... Perhaps the aircrash was cooked-up at Taihoku. Possibly after that Bose escaped somewhere.'

In 1978 the than Indian High Commissioner in U.K., Shri N.G.Goray, wrote to Lord Mountbatten: 'I would like to refer particularly to pages 137, 138 and 139 of Volume VI (of the Transfer of Power, 1942-47)': that the Govt. of India knew that Shri Bose was alive and they were discussing how he should be dealt with. As you took over from Lord Wavell it will not be wrong to presume that you must have come to know every detail about the incident.'

Mountbatten very much knew the outcome of the inquiry which he himself ordered as the S.E.Asia Allied Command. And further as being a Viceroy of India, succeeding Lord Wavell, he had many reports about Netaji in possession of his Govt. He was keenly interested about Bose as he warned Pandit Nehru at Singapore in early 1946 'not to play-up Bose and his INA', as the believed that Bose was alive. But Lord Mountbatten preferred to evasively reply to Goray on March 10, 1978: '... there was no official record of Shri Subhas Chandra Bose's death in his archives.' Look! how truthfully behaved the 'Admiral of the Flest, Earl Mountbatten of Burma, KG, PC, GCB, OM, GCSI, GCIE, GCVO, DSO, FRS, Braodlands, Romsey, Hampshire 905 9 D.!'

However, evasive though he tried to be in his reply to Shri Goray - one thing he did fruthfully that he didn't confirm Bose's death.

The British Global Military Intelligence of the War days, briefly called CSDIC, deputed B.C.Chakraborty, an Indian senior officer, to interrogate Col. Habibur Rahman. Chakraborty told Khosla Commission: 'After analysing all the reports that were in hands at the time with the CSDIC, it was obvious that Col. Habibur Rahman told lies and the Japanese Govt. concealed facts. Their reply was nothing other than a product of conspiracy regarding the movement of Netaji Subhas Chandra Bose on August 18, 1945: None of them (the British Military Intelligence or the U.S.) believed that the information about Netaji's death could be correct'.

It is interesting to note that according to the evidence of Mir Chandani and B.C.Mallik, two former Chiefs of the Indian Intelligence, they told Khosla Commission that the Govt. of U.K. and the Govt. of India that pursued all the reports about Bose are still in possession of Govt. of U.K. besides the reports of Mountbatten's inquiry which, according to their policy decision, will be published after 100 years of 'The Transfer of Power'.

# Probe by Genl. Mac Arthur

The investigation report of Genl. Mac Arthur's team was very vital because the U.S. team reached Tokyo and Formose (Taiwan) much earlier than the British team. This U.S. team examined all the concerned Japanese officer at Tokyo and Taihoku and repeatedly interrogated Col. Habibur Rahman. But nothing has been published so far about Mac Arthur's inquiry.

However, some facts were indirectly known about this report. At the time of Tokyo Trial after the War, Genl. Tojo, Genl. Fuzyama and other highest war-time Jap leaders, who were facing trial, were found to stand up and bow down their heads very reverentially when Chandra Bose's name was mentioned during the session of the Tokyo Trial. The U.S. jurists of the Trial being curiously intrigued by the performance of the civil and military Jap leaders of the war-days asked their Indian colleague, Dr. Radha Vinod Pal, why the Japanese behaved in that way when the name of Subhas Chandra Bose was mentioned? They were told that it was the Japanese tradition of showing respect to the man whom they held in highest esteem. The U.S. jurist told Dr. Pal that 'what they know about U.S. inquiry, Subhas Chandra Bose didn't die in the alleged aircrash, - he escaped'. This information was given to the press by



Dr. Pal after returning to India. Uptill now the U.S. Govt. have not mentioned anything about the report and the findings of the Mac Arthur's inquiry.

#### Investigation by Taipei Mayor

The Mayor of Taipei (Taihoku) of Taiwan (Formosa) soon after Chinese reoccupation of Formosa about a month after fall of Japan made an inquiry to verify the report of Bose's death in an aircrash at the Taipei airfield. The President of the Nationalist China, Genl. Chiang- Kai- Shek had very friendly relation with Subhas Chandra Bose in pre-war days. According to the report of H.V.Kamath, Prokash Vir Shastri and Mulka Govind Reddy – all former members of Parliament, who visited Taiwan on invitation by an unofficial organisation there, - the Mayor of Taipei told them that their inquiry could not verify the report of any aircrash at Taipei on August 18, 1945 involving Subhas Chandra Bose.

Taihoku airfield was the place of occurrance of the reported aircrash. But Pandit Nehru didn't allow Shah Nawaz Committee to visit Taipei (Taihoku). However, Khosla Commission was allowed to visit this city, but Mr. Khosla refused to write to the Govt. of Taiwan to give him a copy of the Taipei Mayor's inquiry report on diplomatic plea, although the Taiwan Govt. was willing to respond to Indian request. The matter later was raised in Lok Sabha, when the then Minister of External Affairs, Sardar Swaran Singh, denied if any such instruction was sent to Khosla. This report of the Mayor of Taipei is still available in the archives of the Taiwan Govt.

#### Habibur Rahman's Story

Col. Habibur Rahman stuck to his story of Netaji's death although he could convince neither the British, nor the American investigating team, nor any of his INA colleagues. After interrogation of Habibur Rahman by the British team it observed: 'Habibur Rahman is unwilling to come out with truth'. Everybody took his version as that of a soldier's statement in defence of the escape-plan of his master.

Habibur Rahman showed a rectangular watch with a burnt band saying that Netaji had it in his wrist when he was engulfed in the burning flame after the aircrash. But it was known to every INA personnel that Netaji always used a round shaped wrist watch and not any rectangular one. When Bhulabhai Desai, the Chief of the INA Defence Council asked Habibur Rahman to open the Watch, it was found that the oil inside the watch remained intact without forming any clot, although Habibur Rahman claimed that it was almost consumed in flame at the time of aircrash. Shri Desai indicatively smiled and returned the watch to Rahman without any comment.

While describing all about the aircrash, Habibur Rahman used to say that when the plane crashed he was wearing an wollen jumper, whereas Netaji had a Khaki suit on his body. When he was asked how was it that not a single thread of his wollen jumper was burnt but Netaji's less inflammable Khaki suit was 'horribly' caught in fire? Habibur fumbled to answer this searching question.

Again, he said that he made frantic effort with both his hands to put out the flame all around Netaji's body after the aircrash. But when he was asked how could it happen that the palms of his two hands bore no burnt marks whereas the dorsal of his two hands showed some hazy marks, which in all probability could be of acid-burn? He looked vacant and attempted no explanation.

In 1947 before he moved to Pakistan, Habibur Rahman lived with his father-in-law who was the 'Prime Minister' of the Princely State of Alwar. He confessed to Mr. Khemchand the ICS Secretary to the Alwar Prime Minister that Netaji's death-story was nothing but cooked-up.

In 1956 Habibur Rahman came to Delhi from Pakistan to appear before the Shah Nawaz Committee. However, a few days before his departure for Delhi the 'Civil and Military Gazette' of Lahore published a news that Habibur Rahman told this paper that Netaji didn't die in the aircrash. This report was published in 'East Pakistan' dailies also. But he declined to contradict it. Habibur Rahman refused to appear before Khosla Commission to avoid cross examination by the judicial commission. Before non-judicial Shah Nawaz Committee he submitted just a written statement.

In 1966 when a Japanese biographer of Netaji, Mr. Hayashida, met Habibur in Rawalpindi, he repeated nothing than the same story of Netaji's death but added: 'Netaji Subhas Chandra Bose was the greatest revolutionary that the Indian Subcontinent produced in the present century......Many in Bharat still believe that he is still alive and will turn up someday. How we wish he had come back alive! The flame of freedom lit by him is still burning and will continue to inspire the freedom fighters all over the world for all times to come.' Oh! how Habibur Rahman failed to hold back the truthful impulse of his inner conscience in some sensitive moment!

# Internal Documents, 'Missing or Destroyed'

Nehru Govt. got in its possession all the secret reports of the Govt. of Wavell and Mountbatten after the 'Transfer of Power'. Panditji was also known to maintain a special file 'about Netaji. But Nehru Govt. placed only a few documents before the Shah Nawaz Committee and Indira Govt. also supplied almost the same package of files again for the scrutiny of the Khosla Commission. These documents included a few pages of Mountbatten's Diary, some parts of Figgis Report and a small part of the report of CSDIC. Some irrelevant papers were also sent to the Commission. However, inside the package of these official documents a very intriguing official note was found enlisting some 40 secret files about Netaji marked as 'Either Missing' or 'Papers Destroyed'? Pandit Nehru's personal and other official files regarding the issue of Netaji were kept by Md. Yunus. 'Papers destroyed' were about 15. 'Notes destroyed' were about 12. 'Prime Minister's Secretariate File 'missing or destroyed' included - (i) Investigation into circumstances leading to the death of Subhas Chandra Bose, (ii) 'Indian National Army (INA) in the Far East', and (iii) 'INA Treasure'. These files were either deliberately destroyed or intentionally withheld. Mr. Khosla dared not to ask the Govt. why these valuable secret files were either 'destroyed or missing' and what were the contents of these files?

#### Netaji's Destination was Russia

It has been established from all documents and evidences that Netaji's destination after fall of Japan was Russia. Four days before the surrender of Japan on August 15, 1945 a special messanger from the Imperial headquarter of Tokyo, Mr. Negishi, rushed to Seramban in Malay to handover a confidential message from the highest Japanese authority. It showed in what respect the Japanese held Netaji. This confidential message urged Netaji to Immediately move to Saigon to fly out of the S.E.Asia zone without any delay. However, instead of accompanying Mr. Negishi, Netaji rushed to Singapore, the Hd. Qrt. of Azad Hind Govt. and held an emergent meeting of his Cabinet to decide the future course of the Azad Hind Govt. and the INA in the event of Japanese surrender. Netaji proposed to surrender to the British Army at Singapore. But his Cabinet unanimously decided that Netaji should make every effort to cross into Soviet Russia, whereas the Cabinet Ministers and the INA would surrender to the British Army at Singapore. After arguing with his Cabinet Ministers, Netaji finally agreed to bow-down to honour the wishes of his Cabinet. On 14th August Netaji attended a cultural function of the Jhansi Regiment without disclosing what was going to happen next day.

Russian quite well. He came in contact with a German-Jew, B.A.Zerobin, who was Deputy Chief of a Mechine Building Plant (Machinosttroitelinizevod) at Gorlovska near the city of Doenesk. Mr. Zerobin told Sarkar that while he was in a Siberian Re-orientation Camp after being captured in Berlin, he surprisingly met Bose in the Camp. It was in 1961. Zerobin claimed that he saw Bose earlier in Berlin during the days of War. According to Zerobin, one day Bose was brought to the Re-orientation Camp in a car accompanied by two Mongolian guards, one acting as his interpreter. Zerobin rushed to Bose exclaiming: 'Sir, I met you in Berlin?' Bose replied, 'Quite likely'. Bose asked Zerobin, 'What are you doing here? Zerobin: 'I don't know what for'. Zerobin again asked Bose: 'What is your programme, Sir? Are you going back to India?' Bose replied: 'Expected to be soon'. Bose and Zerobin were talking in German. The Mongolian interpreter intervened and said, 'Not allowed'. Zerobin said that he saw Bose in the Re-orientation Camp only on two occasions.

Zerobin worned Sarkar that if he divulged anything about Bose in Russia it would cost lives of both, - of Zerobin and Sarkar too. Notwithstanding Zerobin's warning Sarkar tried to contact Indian Embassy at Moscow. But he was sternly warned by one of the Secretary to shut his mouth about the matter. Frightened Sarkar remained muted for years.

After Glasnost and Perestroika when liberal winds began to blow in Russia, a former Chairman of the Lok Sabha Privilege Committee (present writer) wrote a long letter to Mr. Mikhail Gorbachev, giving all available facts about the reports of Netaji's going to Russia after the fall of Japan. This letter was separately forward to Gorbachev by the two former Presidents of India, Shri N.Sanjeeva Reddy and Shri Gyani Jail Singh with their own comments. Shri S. Nijalingappa, the former oldest President of the Congress, also sent another letter to the Russian leader. But all these letters remained unacknowledged and unreplied.

Latest positive confirmation about Netaji's presence in Russia in 1946 came from a document found in the archives of the Princeton University of USA in 1990. It is the copy of the letter written on 22nd July 1946 by Khurshed Behn to the eminent American journalist Louis Fischer, who came in close contact with Mahatma Gandhi. Giving briefly the idea about the political situation in India in 1946 Khurshed Behn wrote to Fischer: 'At heart the Indian Army is sympathetic with the Indian National Army (INA of Bose). If Bose comes with the help of Russia neither Gandhiji nor Congress will be able to reason with the country. Also (if) Russia for propaganda purposes declares itself an Asiatic country, then there is no hope of an European alliance acceptable to India.' This letter was written to Louis Fischer as he had access to the USA President.

It was a hand written letter as it was very confidential. Khurshed Behn was a very trusted desciple of Mahatma Gandhi and lived with him in his Wardha Ashram. It was obvious that Khurshed Behn really wrote the letter to Louis Fischer being dictated by Gandhiji.

Khurshed Behn never moved an inch without the hint from the Mahatma. This letter provided a definite affirmation why Gandhiji made repeated statements in 1946 telling the Indian people that he believed 'Netaji is alive and hiding some where.'

Pandit Jawaharlal Nehru knew all these facts about Netaji's taking shelter in Russia. But he did nothing to contact Stalin or his successor Russian leaders to enquire about Netaji and arrange for his repatriation to his motherland. Rather after getting into power in Delhi Pandit Nehru was seen to adopt an attitude of stoic silence regarding anything about Netaji. Regrettably, no other Indian Govt. after Nehru also made any efforts to contact the Govt. of USSR to ascertain all facts published about Netaji's taking shelter in that country.

# Now an Unfulfilled National Duty for Shri Narasimha Rao

Mr. Clement Attlee who piloted the Indian Independence Bill in the House of Common came to visit India as a private citizen in mid-fifty. He was asked at Calcutta Raj Bhavan by the then acting Governor of West Bengal, Justice Phani Bhusan Chakraborty: 'Mr. Attlee, why did you quit India so precipitously after winning the Great War?'. Prompt was the reply from the former Prime Minister of Britain: 'Because of the activities of Subhas Chandra Bose.' Yes, our Sub-continent which is now called India, Pakistan and Bangladesh got independence in 1947 because of the irresistible thrust of the revolutionary legends of Netaji Subhas Chandra Bose and his INA. After the last Great War when the Saga of the Azad Hind Revolution raised a volcanic upsurge of militant patriotism that shook the very foundation of British Raj in India every Indian leader, except Pandit Jawaharlal Nehru and Mahammad Ali Jinnah, was seen to vie with one another in showaring their eloquent homages on Netaji. But after India attained freedom nothing was done to acknowledge our national gratitude to the greatest national hero of our independence. Nay, no effective move was made to find out what really happened to him.

After 10 years of persistant agitations Pandit Nehru formed Shah Nawaz Committee 'to enquire into 'death of Netaji'. The Committee produced a report which the Indian people refused to accept. Again in 1967 more than 350 Members of Parliament launched a fresh agitation for instituting a judicial inquiry into Netaji's disappearance. After more than 2 year's continuous agitation the Govt. of Indira Gandhi instituted 'A one-man Judicial Commission to inquire into disappearance of Netaji Subhas Chandra Bose.' But the whole inquiry was vitiated by the tendentious motivation of its Chairman, Justice Khosla for which he had to unconditionally apolized once before the Calcutta High Court and then again before Lok Sabha. On Sept 3, 1978 Morarji Desai, the then Prime Minister rejected the findings of both Shah Nawaz Committee and Khosla Commission. As the issue of the inquiry about Netaji was reopened by the Govt., Shri Morarji Desai suggested an 'Investigative Inquiry' to finalise the matter of the Netaji-inquiry. But no move could be made as his Govt. fell in 1979.

Again the pending issue of the proposed Investigative Inquiry about Netaji was taken up by the successive Govts. of Shri V.P.Singh and Shri Chandra Sekhar. It was because of the patriotic and moral intervention of the President of India, Shri R.Venkataraman, Chandra Sekhar Govt. announced on March 1991; 'starting of a High Level Investigative Inquiry about Disappearance of Netaji Subhas Chandra Bose into the documents available with Govts. of UK, USA, USSR, Japan and others'. But this move also got bogged because of resignation of the Chandra Sekhar Govt.

All hopes now rests with the willingness and the initiative of the veteran Freedom Fighter, Shri Narasimha Rao. Will India's present Prime Minister fulfil the objective of the Investigative Inquiry about Netaji as has already been decided by his predecessor Govt.? If he feels it as our patriotic task to fulfil our unfulfilled national duty to Netaji, then his Govt will have to make a sincere and serious move to execute this investigation in a proper manner.

Firstly, the Prime Minister of India would have to write to all the Govts. of UK, USA and Taiwan for making available the reports of the inquiries already made by them long before about Netaji Subhas Chandra Bose of India.

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Secondly, the Govt. should write to the Japanese Govt. to provide all documents connected with the reports of the aircrash at Taihoku (Taipei) allegedly involving Netaji.

Thirdly, which is most vital, the Prime Minister of India should approach the new Russian Govt. and its sister's States to let India know what KGB know about Netaji's taking shelter in the former USSR. Now a new wind of freedom and liberalism is blowing in Russia and if our Govt. in such radically changed milieu take up the issue in all earnestness with the present Russian Govt. there is no reason why the present Govt. of Russia will not come out with all facts about Netaji Subhas Chandra Bose that were and are still locked in the KGB files Stalin's achieves and other quarters.

In 1946 the Govt. of Communist China also featured in various news relating to Netaji. The Govt. of India should also approach the Communist regime of China to find out if they have any facts with them about Subhas Chandra Bose.

Lastly, the Govt. of India should make a thorough search to find out from their own official files and archives what were those 'top secret files' which were reported as 'either missing or distroyed'. What were the contents of these files should be carefully inquired into and all efforts should be made to trace Pandit Nehru's special files about Netaji and the other files left behind by the Govt. of Wavell and Mountbatten at the time of Transfer of Power.

The INA treasure that have been kept in the Delhi National Museum, - all about its sources, who brought them, how they were collected, - all facts should be inquired into.

Efforts should also be made to contact the family of Col. Habibur Rahman, who died two years back, to ascertain if he left any document, diary or any note about Netaji.

About 50 years after the last Great War there is no reason to believe that the Allied Powers' past political prejudices against Subhas Chandra Bose will stand any more in the way of their cooperation with the proposed Investigative Inquiry. For Russia, it is the most opportune moment when a friendly move by the Govt. of India is likely to succeed to convince the Russian Govt. to give out all facts, reports, documents and information about Netaji Subhas Chandra Bose's taking shelter in Russia that are in possession or were in possession of the former KGB and other Russian secret sources.

The Govt. of India should set up a high level expert committee, to draw out the parameter and modality of its functioning to scan, scrutinise and judge all the documents likely to be available from the sources of the foreign governments and from the internal sources of our Govt. If our Govt, make a determined and honest effort the proposed Investigative Inquiry will certainly succeed to finally let our countrymen know what really happened to our Netaji.

# Unanswered still Remains the Questions!

Netaji is no longer any political challenge to anybody. He is also not dead legally. The issue is still open before the Govt. There is no proof of his death in the alleged aircrash. There is no reports that he died elsewhere. There is no visual proof, as well, of his being alive. The longing question still remained unanswered. Then, what happened to our Netaji?

Is he still languishing in the desolate cell of a Siberian Concentration Camp? Has he been killed there by Stalin or did he die a gruelling death in a lonely cell? Or, by the grace

of the Maha Shakti he always worshipped, has the revolutionary pilgrim of India succeeded to come out of the Russian Concentration Camp? Is he now living incognito as a 'Sanyasin' - a supreme consummation of his spiritual aspiration from the days of his early youth?

We do not know yet what really happened to Netaji. But it is a sacred national duty that we have failed so long to know what really happened to the Maha Kshatriya of Modern India. Will Shri Narasimha Rao, a former Freedom Fighter, rise above all small political considerations to accept the national task of finding what really happened to the Netaji of the Indian people? If Shri Rao fulfills this task his name will remain enshrined in the hearts of the Indian people. If Gandhiji survived a few years more he would raised storm in India to know the truth about Netaji, who 'gambled away his life' for the emancipation of his motherland. Let us not remain ungrateful to the epic hero of Indian freedom!

# II An Appeal To Boris Yeltsin

Mr. Boris Yeltsin Hon'ble President Federation of Russia Moscow, Russia

Honourable Sir,

After the great non-violent democratic revolution in the former Soviet Union under your leadership, Indian people are watching the democratic developments in the Russian Federation and its sister States with deep interest. What has happened in the former USSR is a seismic event that has shaken the existing co-relations of the present politics of the modern world, opening a new vista of peace, amity and human rights before the whole humanity.

Indian relation with Russia had always been friendly, cordial and mutually trustworthy. Indian freedom movement received sustained support from Russia. Our greatest national revolutionary, Subhas Chandra Bose, who was twice elected as the President of the Indian National Congress, showed consistent interest in cultivating Russian friendship for the cause of Indian freedom.

After his historic escape from the British India in January 1941, he intended to reach Moscow via Kabul. But, because of the policy of Stalin at that time, Subhas Chandra Bose was compelled by the prevailing circumstances to divert his destination to Germany via Moscow to seek help of the "enemy's enemy" for ousting British Imperialism from India. He had to seek help of the Axis Power, though he was opposed to their ideology, for exploiting international enmity between Britain and Germany and also because of the fact that due to the Russo-German Pact, existing at that time, Germany was looked upon by him as an ally of Russia.

After the treacherous attack of Russia by Nazi Army in June 1941, the dream of Subhas Chandra Bose to achieve Indian independence with the collaborative help of Russia and Germany was shattered. Sitting at the very den of Hitler, Subhas Bose, the intrepid Indian Revolutionary, dared to write to Hitler's Foreign Minister Mr. Ribbentrop that "the Indian people

will view 'German attack' of Russia as an 'imperialist aggression.' Though Subhas Chandra Bose formed as Indian Legion in Germany, he never uttered a word in support of Nazi aggression of Russia, nor did he allow the Indian Legion to be used in anyway against the interest of Russia.

Being frustrated in Germany, Subhas Chandra Bose undertook an unthinkable hazard of 90 days Submarine journey from Kiel to Singapore. He created a saga of Revolutionary War of Indian Liberation against British Imperialism, the fiery impact of which ultimately compelled the British power to quit its Indian Empire after the War.

While waging 'War of Independence' against British Imperialism with the help of Japan, Subhas Chandra Bose never uttered a single word, nor did he do anything adversely against Russia or China. Rather, he always tried to maintain an attitude of friendship towards these two countries. His joining hands with Germany and Japan was motivated solely for winning Indian national independence.

When it became clear after fall of Germany that collapse of Japan was a matter of days, Subhas Chandra Bose contacted Mr. Jackob Malik, the then Russian Ambassador in Tokyo, for seeking asylum in Russia. After surrender of Japan on August 15, 1945, Tokyo Radio made a dubious broadcast on 23rd August circulating a story that Subhas Chandra Bose, the supreme leader of the Provisional Govt. of Free India, died in an aircrash at Taihoku (Taipei). But the report of Bose's death was not confirmed officially either by Japan or the U.K. nor also by the USA. Genl. Mac Arthur of the US Pacific Army and Adml. Mountbatten of the S.E.Asia Allied Command immediately ordered two separate inquiries to probe into the story of Subhas Chandra Bose's death. But their inquiries couldn't find any positive evidence to confirm Bose's death.

Subhas Chandra Bose made his flight from Saigon on Aug 17, 1945. His destination was Russia, via Dairen. According to the Mac Arthur's Inquiry Japan made a false broadcast on Aug 23, 1945 to comouflage Subhas Chandra Bose's escape into Russian Siberia via Dairen.

During the days of 1945-46 British Intelligence made many reports to the Viceroy of British India, that Subhas Chandra Bose under the cover of the story of his aircrash death had actually reached Russia. This report was corroborated by the Russian Ambassador in Kabul, and the Russian Consul General at Tehean in 1946. It was told by them that Bose was living in Russia with an assumed Mongolian name of 'Ghilzai Malang'.

The Govt. of India instituted two inquiries to verify if the report of Bose's aircrash death was true. But these two inquiries failed to confirm Bose's death. All the high officers of Subhas Chandra Bose's Revolutionary Army (INA) and the Ministers of his Provisional Govt. of Free India and all the high ranking Jap Generals and Jap diplomats, who appeared before the two Indian inquiries, categorically stated that Bose's plan after fall of Japan was to go to Russia

Dr. S.Radhakrishnan, who was the second Indian Ambassador to Moscow told his personal friend, Dr. Saroj Das of the University of Calcutta that he got the information that Subhas Chandra Bose was held in captivity in Soviet Russia by Stalin.

In 1975 the British Govt. published secret documents concerning 'Transfer of Power' to India. In it a specially important note, after analysing the pros and cons of various measures



how to punish Subhas Chandra Bose if he was arrested, recommended to the British Govt. in late 1945 that:

"...In many ways the easiest course would be to leave him where he is and not to ask for his release. He might, of Course, in certain circumstances be welcomed by the Russians. This course would raise fewest immediate political difficulties."

This note provides an authentic information that Bose took asylum in Russia after fall of Japan.

Another fact revealed is more starling. An Indian Engineer of Calcutta, Mr. A.Sarkar, who was deputed by the Govt. of India to have training in machine building plant in Russia, was three times in Russia and knew Russian well. Mr. Sarkar worked in the Machine Building Plant at Gorlovska near the city of Doniesk. He came in contact of a German – Jew there, who was the Deputy Chief of the Plant - Machinosttroitelinizevod. His name was B.A.Zerobin, who was earlier an war machine designer in Nazi Germany. He claimed that he met the Indian Revolutionary Subhas Chandra Bose several times in Berlin.

Zerobin after being captured in Berlin, was taken to Siberia in a train to an unknown place, from where he was flown to a Re-orientation Camp somewhere in Siberia. In that Camp one day he suddenly found Subhas Chandra Bose coming out of a Car, flanked by two Mongolian guards. Seeing Bose, Zerobin excitedly rushed towards him and said: 'Sir, I have met you in Berlin'. Bose replied in his characteristic style: 'Quite likely'. Bose then asked Zerobin: 'What are you doing here?' Replied Zerobin: 'I don't know what for.' Zerobin again asked Bose: 'What is your programme, Sir? Are you going back to India'? Bose: 'I expect it to be soon.'

While Bose and Zerobin were talking in German, (Bose knew German well) the Mongolian guards intervened: 'Not allowed'.

Thereafter, Zerobin had no opportunity to meet Bose in the Siberian Re-orientation Camp.

Zerobin warned Mr. A.K.Sarkar that if he disclosed the report of his meeting with Subhas Chandra Bose in the Re-orientation Camp in Siberia, the lives of both Zerobin and Sarkar will be seriously endangered in Russia. After retiring from the Govt. job, Shri Sarkar took courage to disclose the report about Bose and that too many years later.

Prof. Samar Guha, a former member of the Indian Parliament and three-term Chairman of its Privilege Committee, — the highest Judicial body of the Indian Parliament, wrote a long letter to Mr. Gorbachev requesting him to disclose all facts about Netaji Subhas Chandra Bose's taking asylum in Russia after fall of Japan. This letter was separately forwarded to Mr. Gorbachev by the two former Presidents of India, Mr. N.Sanjiva Reddy and Mr. Gyani Zail Singh. A third letter was forwarded by the oldest President of Indian National Congress, Mr. S.Nijalingappa. Unfortunately, Mr. Gorbachev remained unresponsive.

A very important letter has been found out in 1991 in the archives of the US Princeton University, which confirmed the British report that Mahatma Gandhi knew that Subhas Chandra Bose was in Russia in 1946. This letter was written by Khurshed Behn, a very trusted disciple of Mahatma Gandhi, to the US journalist Louis Fischer, who worked as go-between Gandhi

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and the US President. This letter was written on 22nd July, 1946. In it was written by Khurshed Behn, inter alia:

".... At heart the Indian Army is sympathetic with the Indian National Army (of Subhas Bose), if Bose comes with the help of Russia, neither Gandhiji, nor the Congress will be able to reason with the country ....."

Dear President Yeltsin! We hope that you know how the Indian people hold Subhas Chandra Bose in their highest esteem as the greatest revolutionary of their national liberation. It was the saga of heroic exploits of the War of Indian Independence waged by Bose against the British Power that created such a tremendous anti-British upsurge in India after the Great War that it ultimately compelled the Britishers to withdraw from their Indian Empire. Mahatma Gandhi is hailed in India as the 'Father of the Nation' and in the same way Subhas Chandra Bose is acclaimed as 'The Netaji', — the supreme liberator of the Indian people.

It is not yet known what really happened to Subhas Chandra Bose in Stalin's Russia.

Many Indian Communist and Nationalist Revolutionaries were killed by Stalin. How Stalin treated Subhas Chandra Bose, the whole episode remained unrevealed.

Dear Mr. Yeltsin! You have earned international admiration as the Liberator of the Russia people and a new harbinger of the message of peace, freedom and democracy for the humanity of our age. We beseech you to let the Indian people know what really happened to their beloved leader, their National Liberator, Subhas Chandra Bose, who sought asylum in Stalin's Russia after fall of Japan. Your Govt. is now disclosing all secret KGB files, Stalin's confidential archives and other hitherto unknown secret reports of Stalin's days. You have gracefully rehabilitated many eminent Russians and have given promise to the US people to find out if any US soldiers are left anywhere in the Russian territory.

India and Russia are two great friendly countries. The people of these two countries had never any conflict between them. If you reveal all facts about Subhas Chandra Bose, the greatest hero of Indian liberation, who sought asylum in Stalin's Russia, you will win the hearts of the millions of the people of our country. The Indian people are pinning for years to know what ultimately happened to their beloved leader, Subhas Chandra Bose, the Promethean Hero of their nation, after he took political asylum in Stalin's Russia.

We beseech you again President Yeltsin to let the Indian people know all facts about Subhas Chandra Bose after he sought political asylum in Stalin's Soviet Russia!

May God bless you, bless the Russian people! May God be in your heart to impel you to reveal all truths about the most beloved leader of the Indian people, Subhas Chandra Bose, since he reached Russia after fall of Japan.

With warmest greetings and regards,

Yours sincerely,

Sd/-SAMAR GUHA

# DISTRICT : CALCUTTA

IN THE HIGH COURT AT CALCUTTA

Constitutional writ Jurisdiction

(Appella te Side)

# In the matter of :

An application under Article 226 of the Constitution of India;

And

# In the matter of :

A Writ in the nature of Mandamus;

And

# In the matter of :

A writ in the nature of Certiorari;

And

# In the matter of :

Any other writ and/or writs, order and/or orders, direction and/or directions;

ind

# In the matter of :

Arts 19, 21, 51A of the Constitution of India

And

# In the matter of :

The highest Civilian Award
'Bharat Ratna' conferred upon
Subhas Chandra Bose posthumously
without having any official
declaration by Union of India of
His death and/or admission of
His death;

And

# In the matter of :

A Direction upon the Union of India to declare post-facto the death of Subhas Chandra Bose;

And

# In the matter of :

'Right to Know ' is an extension of Fundamental Rights;

And

# In the matter of :

Bijan Chosh, Advocate

practising at High Court at Calcutta

son of Sri Benoy Krishna Ghosh

B-172, B.B. College, Howrah-3

.. Petitioner

- Versus -

1. The Union of India
represented through the Secretary,
Ministry of Home Affairs
New Delhi-1

2. The Union of India
service through the Secretary,
Ministry of Human Resources &
Development, New Delhi -1.

... Respondents

- I, Amiyanath Bose, son of late Sarat Chandra Bose, aged about 77 years, at present residing at 226/4A, Netaji Subhas Chandra "ose Road, Calcutta-700 040, do hereby solemnly affirm and say as follyous:-
- 1. I was made a party to the above proceeding by His
  Lordship the Hon ble Justice Umesh Chandra Banerjee, who also
  permitted me to file an affidavit in the above matter.
- 2. I support the prayers of the petition made by the petitioner Bijon Chosh.
- I consider that the decision of the Government of India to confer Bharat Ratna on Netaji Subhas Chandra Bose hereinafter referred to as XMXTDM Netaji, posthumously, is a crude and clumsy attempt to dishunour Netaji.

- 4. The Government has not disclosed as to why it decided to confer Bharat Ratna posthumously on Netaji. The Government has not disclosed any materials or documents to prove as to when, where and how Netaji died. The people of India are entitled to be given complete and detailed information about the alleged death of Netaji. I call upon the Government of India to produce before this Hon ble Court citation, if any, in connection with Bharat Ratna Award intended to be conferred on Netaji as well as all the documentary evidence and official recofds from the Prime Minister's Secretariat and from the Ministry of Esternal Affairs and the Ministry of Home Affairs, a and all other documents related to and/or connected with the alleged death of Netaji.
- 5. I obtained a degree in Sconomics from the Cambridge in July 1940. I was called to the Bar from the Lincoln's Inn in June 1941. Shortly after completion of my education in England, I approached the Indian High Commission in London for securing a passage to India. Within a fortnight thereafter, some time in August 1941, I was called to the Head-Quarters of the New Scotland fard. I was informed by the officer who met me at the Offi e of the New Scotland fard that I would not be permitted to return to India. It may be mentioned here that at that time, i.e. in August 1941, Netaji was in Berlin.
- 6. when Gandhiji started his 'Quit India' Movement in 1942, the India League in London as well as Krishna Menon in

against the 'Quit India' Movement. This behavior of Krishna
Menon greatly annoyed the Indians in Great Britain. A conference
was called by the Indians in Great Britain and a Committee of
Indian Congressman in Great Britain was formed at that Conference. I was elected its Gameral Secretary.

- where he was then detained, the Committee of Indian Congressmen organised a public meeting at Caxton Hall in London to demand Gandhiji's unconditional release. The meeting was presided over by Lawrence Housman, an eminent English Poet, and it was addressed by a large number of members of the House of Commons and the House of Lords. It was decided at that public meeting that a representation signed by a large number of prominent persons in england would be sent to President Roosevelt. A group of eminent persons led by Augustus John, C.M. met the American Ambassador and the representation was handed over to him. On the advice of the American Ambassador for a copy of the said representation was also set to the disting ished journalist and author, Louis rischer who was then working as an adviser to the American Government.
  - 8. On 7 July, 1944, Pubhas Chanara Bose spoke to andhiji over the Azad Hind Radio from Rangoon. In course of his speech Bose said:

"I am convinced that, if we do desire freedom, we must be prepared to wade through blood. If circumstances made it possible for us to organise an armed struggle inside India through our own efforts and resources that would have been the best course for us. But, Mahatmaji, you know the indian conditions perhaps better than anybody else. As far as I am concerned, after 20 years experience of public service in India, I have come to the conclusion that it is impossible to organise armed resistance in the country without some help from our countryment abroad as well as from some foreign power or powers."

It may be mentioned here that this message of Subhas Chandra Bose to Gandhiji was broadcast sometime after the Indian National Army lost its battle for Imphal and Kohima. It is clear that even after losing the battle, Subhas Chandra Bose was still of the opinion that India's independence could not be achieved without an armed revolutionary struggle.

9. On 12 September, 1944, Subhas Chandra Bose broadcast the following appeal to his contrymen from the Azad Hind Ragio in Mangoon:

"Friends and countrymen, I want to talk to jour today about the Indian situation. You are all aware that Gandhiji and Mr. Jinnah are discussing the Hindu-Muslim question in Bombay and that Gandhiji

is prepared to come to an agreement with the League even if it means conceding the League demand of Pakistan. I know that you are all very anxious to know about what we Indians abroad think about Gandhiji's attempt to pacify the League. It is clear that Gandhiji and other Congress Leaders wish to compromise with Britain after reaching a settlement with the League. We must act instantly if we are to prevent this. we Indians in East Asia are today fighting for a free and united India. We are resolved to liberate our Motherland and we are confident that we shall ultimately succeed. However long and bitter the struggle, we are convinced that truth and justice will finally triumph. and that our struggle for India's liberation will be successful. Therefore, we shall never be a party to anycompromise with Britain. The very idea of a compromise with the British is repugnant to us. It will, we very strongly feel, mean the perpetuation of our slavery. Friends, we have resolved to create a united and free 'ndia. Therefore, we shall oppose all attempts to divide her and cut her up into bits."

asking the findian People to be prepared for an armed revolutionary struggle. Bose was also appealing to them not to destry the unity of India by conceding partition of the country at the instance of the British. On 12 September, 1944, he warned the Indian people about the machinations of Gandhiji and other Congress leaders.

11. I was ultimately able to return to India in November, 1944. Gandhiji an Sardar Patel were well informed about the activities of the Committee of Indian Congressmen in Great Britain as well as of my activities in England from 1942 to 1944, as reports about those activities were regularly published in a large number of Indian newspapers.

12. Soon after I returned to India, I heard a large number of broadcasts of Netaji made over the Rangoon Radio. From the beginning of 1945 Bose was telling the Indian people that after the I.N.A. Officer and men were taken back to India as prisoners of war, a revolutionary situation would develop in India and the Indian people should be ready to take full advantage of that situation and strike for India's freedom.

from Pyarelal, who was then Gandhiji's prime ipal Secretary, asking me to met Gandhiji at the Nature Cure Clinic in Poona. at the said Clinic I met Gandhiji, Sardar Patel, Mrs. Sarojini Naidu and Khan Abdul Gaffar Khan. I stayed with them for a week. Khurshed Ben Naoroji and Ava Gandhi were also at the clinic and acting as Gandhiji's Secretaries. Detailed notes of my conversation with Gandhiji were taken by Khurshed Ben Naoroji. I came to know her for the first time in Poona and I became acquainted with her hand-writing as we often compared notes. I also met Khurshed Ban Naoroji subsequently in Biyla House in Bombay as well as at the Bhangi Colony in Delhi. It is now clear to me that the main purpose why

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Gandhiji called me to Poona was to utilise me to persuade my father Sarat Chandra Bose, who was then in detention at Exemp Cooncor, to rejoin the Congress. In view of the fact that Subhas Chandra Bose was asking the Indian people from Burma top prepare for an armed revolution, Gandhiji intended to eliminate the possibility of Sarat Chandra Bose becoming the centre of revolutionary struggle. If Sarat Chandra Bose could be persuaded to rejoin the Congress, he would lose his independent political image. I should add here that Sarat Chandra Bose could not and did not listen to Subhas Bose's broadcasts made in the beginning of 1945 as he was then in detention, nor did I understand then the full implications of his speeches. Gandhiji's letter to Sarat Bose was written on his behalf by Pyarelal. gandhiji often followed this practice. Letters on his behalf have often been written by Mahadev Deasi, Rajkumari Amrit Kaur, Ryarelal, Khurshed Naoroji and G. D. Birla. Gandhiji's letter to Sarat Bose was handed over to me for being sent to Sarat Bose. with the assistance of Ramnath Goenka of Indian Express Group and Dr. Ayenger, then Director of the Pasteur Institute at Coonoor, the letter was smuggled into Cooncor Detention Camp and delivered to my father. Dr. Ayenger whowas then a Government servant used to visit my father in his detention camp everyweek for taking his blood for examination.

On receipt of Gandhiji's letter, Sarat Bose rejoined the Congress. I now think that myfather's decision to rejoin the Congress was a grievus political mistake. 14. In course of my prolonged discussions with Gandhiji we often discussed economic development in Free India. Some time after my return to Calcutta, I received a letter from Gandhiji dated 30 April, 1945, aphotocopy of which is annexed hereto and marked with letter 'A'.

Annexur

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- 15. On 6 August, 1945 the Atom Bomb was dropped on
  Hiroshima and on 7 August another bomb fell on Nagasaki. On
  7 August 1945, the Soviet Army started marching into
  Manchiria in violation of the Russo-Japanese Non-Aggression
  Pact between the Soviet Union and Japan. On 15 August, 1945 the
  Japanese Government surrendered to the United States.
- 16. The Instrument of Surrender was signed on behalf of the Japanese Government on board the ship of General MacArthur by Prince Higashikuni and Maoru Shigemitsu, then Foreign Ministe of Japan, on behalf of the Japanese Government. In this connection, I enclose herewith a photocopy of one of the letters dated 20 December 1953 that I received from Mamoru Shigemitsu which is annexed hereto marked with letter 'B'.
- 17. On 22 August, 1945 Domei News Agency broadcast a news item over the Tokyo Radio stating that Netaji Subhas Chandra Bose had die: in an air crash on 18 August, 1945 at Taihoku, now known as Taipeh in Taiwan, and that his dead-body had been flown to Tokyo for cremation.
  - 18. On 23 August, 1945 a different version was broadcast by

the Domei News Agency about the incident. It stated that Netaji died in an air crash at Taihoku on 18 August and that his body had been cremated in Taihoku. Both boradcasts appeared prominently in Indian newspapers. In August 1945, Sarat Chandra Bose was still in detention at Cooncor.

- 19. Sarat Changra Bose was released from detention in September 1945, and after returning to Calcutta proceeded to Bombay to attend the All India Congress Committee Meeting, which was being held there at that time. I had been elected a member of the A.I.C.C. before my father's release from detention and I was in Bombay when my father arrived there.
- 20. In Bombay Sarat Chandra Bose held a public meeting where an I.N.A. Defence and Relief Committee was formed under the Chairmanship of the then Mayor of Bombay. After he returned to Calcutta, Sarat Bose formed the Bengal I.N.A. Defence and Relief Committee, of which I became the General Secretary. At the suggestion of Sardar Patel an All India Defence and Relief Committee was formed and the Bombay and Bengal Committees were then affiliated to the All India Committee.
- 21. In December 19-5 one Alfred wags, the War Correspondent of Chicago Tribune, vizzited our residence at No. 1, woodburn Park. Alfred wags told my father in my presence that he had accompanied the Intelligence Party, which was sent from General MacArth r's Headquarters to Taihoku to conduct an enquiry about the alleged air crash in August 1945. Wags told

my father in my presence that there was, in fact, no air crash at Taihoku in August 1945 as announced by Domei News Agendy and that Subhas Bose did not die in any air crash in that place.

22. On 16 August, 1946 theree I.N.A. Officers namely, General Zaman Kiani, Colonel Habibur Rahman and Colonel Gulzara Singh arrived in Calcutta and I brought them to our residence at woodburn Park from the Howrah Station. It may be mentioned here that 16 August, 1946 the Calcutta riots had started.

In March 1946, Jawaharlal Nehru came to our residence in Calcutta on his way to Singapo re. Un arrival he handed over a rectangular writwatch to my father. Nehru stated that according to Habibur Rahman this watch was being worn by Subhas Chandra Bose when the air crash took place. This rectangular writ watch was handed over first to Bhulabhai Desai by Habibur Rahman. Habibur kahman told Bhulabhai Desai that the watch had stopped exactly at the time of the air crash which took place according to Rahman at 2-35 P. I. But the watch showed that it had stopped at 7-50. Bhulabhai Desai had asked a watch expert to open the watch in the presence of Habibur Rahman, when the watch was opened, it was found that the oil inside the watch had remained wholly unaffected, although Rahman narrated the story that it had suffered severe burning. I came to know the above facts from Bhulabhai Deasi. Bhulabhai Degai made over the watch to Jawaharlal Nehru so

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that Nehru could hand it over to my father. The watch is now in my custody and I crave leave to produce this watch for inspection by this Hon'ble Court.

- One Captain Hasan Rizvi, who was one of the A.D.C.s of Netaji, used to live with him at his residence in Singapore and Rangoon. After Captain Rizvi returned to India he was appointed as my father's Secretary. According to Captain Rizvi he had never seen Max Netaji during his entire stay in Bast Asia wearing the wrist watch, which was produced by Habibur Rahman. Capt Rizvi further stated that Netaji always used a round writ watch. There are a large number of pho ographs of Netaji Taken in East Asia which show Netaji wearing a round writ watch. Captain Rizvi worked as my father's Secretary till my father's death.
- Netaji in East Asia. Bhaskaran always resided with Netaji in Singapore, Bangkok and Rangoon. After he returned to India, Bhaskaran worked as my father's stenographer till father's death. Bhaskaran was in Bangkok on 16 August, 1945. He also went to the Bangkok Airport to see-off Netaji from where Netaji flew to Saigon. Bhaskaran also confirmed that Netaji was found using a round wrist watch when he boarded the plane at Bangkok for Saigon. Bhaskaran told my father clearly that Netaji never wore the rectangular wrist watch, which was brought to Calcutta by Jawaharlal Nehru. Both Captain Rizvi and Bhaskaran were at Woodburn Park when the above named I.N.A. Officers arrived there.

when the watch was shown to Habibur Rahaman in the presence of Captain Rizvi and Bhaskaran, Col. Habibur Rahman did not contradict the statements of Rizvi and Bhaskaran that the watch brought by Nehru was never worn by Netaji General Laman Aiani and Col. Gulzara Singh also stated in my presence as well as in the presence of Col; Habibur Rahman that the rectangular wrist watch was never worn or used by Netaji. They also stated that there were a dozen similar watches which were used by different I.N.A. Officers. General Kiani and Col. Gulzara Singh told my father in my presence that they had worn similar watches. It is clear from the above facts that the burnt rectangular wrist watch was produced by Col. Habibur dahman as a piece of evidence under the orders of his Leader to camouflage the Leader's whereabouts at that time. It may be mentioned heret that no photograph of Netaji's dead body has been produced by the Japanese Government. If the Japanese broadcasts stating that Netaji had died in a Hospital at Taihoku xxx were true, there should have been a death certificate. No such death certificate has been produced either before the Shah Nawaj Committee or the Khosla Commission.

27. Further according to Col. Habibur Rahman, Netaji was wearing a military uiform when the alleged air crash took place. Rahman told my father in my presence that when the plane crashed, petrol from a tank inside the plane splashed on Netaji's uniform and his entire uniform caught

fire. According to Rahaman, Netaji jumped out of the burning plane through its rear door and he also did the same. Rahman said that Netaji's entire uniform was burning and he tried to put ou the fire by embracing him. When Sarat Bose asked him what was Habibur Rahmanwearing at that time, he pointed out the uniform he was wearing then in August 1946. I should mention here that Habibur Rahman's uniform did not show any signs of burn. After this answer Sarat Bose did not consider it necessary to put any further questions to Haibur Rahman.

28. In March 1946 when Jawaharlal Nehru was staying at Woodburn Park, telegram were received by him from Indians in Singapore requesting him to visit the site of the I.NA. War Memorial there, which was blown up by the British Troops under the Orders of Lord Mountbatten. Nehru agreed to do so and I sent a telegraphic message to Indians at Singapore asking them to make suitable arrangements. But though large crowds were waiting at the site of the I.N.A. Memorial at Singapore, Nehru did not visit the place but went straight to Mountbatten's residence from the airport. When Nehru returned to Calcutta, I asked him why he did not visit the site of the I.N.A. Memorial, though he had promised to do so. He gave me no answer. In Mountabtten's personal dary under the date 18 March, 1946 the following entry apears

" I told him that I would impose no restrictions on his movements or programme. Nehru was only asked

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to avoid any formal ceremony at the memorial to the dead of the Indian National Army. 2

It is indeed, disgraceful that an Indian leader did not wisit the site of the memorall of I.N.A. men, who died for India's freedom under orders of Lord Mountabtten. During his short stay at woodburn Park before he returned to Delhi, Nehru told Sarat Bose that the partition of India on the basis of religion was inevitable. It was clear to us that during his short stay with Lord Mountbatten in March, 1946, Nehru had become a pliable instrument in the hands of Mountbatten.

In September 1946, Dr. Radha Binode Pal visited our 29. woodburn Park residence. He had already become a member of the war Crimes Tribunal in Tokyo. He had come to Calcutta for a short visit due to his wife's illness. Br. Pal narrated the following facts to Sarat Dose in my presence. He stated that whenever the name of Subhas Chandra Bose was mentioned during the course of the trial, General Tojo, the former Prime Minister of Japan, would gtand up and bow. This gesture greatly interested the American Judge, who used to sit next fo Dr. Pal at the Tribunal. The American Judge told him that there was an American Intelligence Report on Subhas Chandra Dose. He showed Dr Pal a copy of ka that report. The American Intelligence Report had come to a definite finding that there was no air crash at Taihoku in Agust 1945. It had also concluded that Subhas Chandra Bose

had arrived safely in Dairen in Manchuria some time in August 1945. The emerican Intelligence report alongwith the facts already stated above make it abundantly clear that Subhas Chandra bose did not die in any air crash at Taihoku in August 1945.

In 1956, a public meeting was held at the/ Calcutta University Institute Hall at which Dr. Radha Binode Pal was requested to hold an enquiry and visit Japan as well as Taipeh to ascertain the true facts about the alleged air crash and the death of Subhas Chandra bose in the said air crash . As soon as the newspapers reported that Dr Pal was being requested by the Citizens of Calcutta, to hold an enquiry, Nehru promptly appointed an Inquiry Committee consisting of Shah "awas khan, a former I.N.A. Officer, Shankar Maitra, a Secretary to the West Bengal Government and Euresh Chandra Bose, an elder brother of Netaji. Shah Nawaj Ahan had already been won over by Jawharlal Nehru. In 1947 Sarat Chandra Bose tried to form an Azad Hind Party consisting of Bengal Vobunteers, Forward Bloc, All India Aishan Sabha and I.N.A. Officers and men. Shah Nawaj Ahan worked as Nehru's agent and was successfully abbe to sabotage the entry of I.N.A. officers and men into the proposed Azad Hind Party. I know what inducements were offered to Shah Nawas Ahan by Nehru, but as both of them are dead, I shall not go into details.

31. When Shah Nawaz Khan Committee Members arrived in

Tokyo in1956, they were received by Shigemitsu, the Japanese Foreign Minister and the Chief of the Foreign Affairs Bureau of the Japanese Government. Shigemitsu informed the members of the Committee that he had made arrangements with Chiangkai-Shek to enable the Committee members to mame an on-the-spot inquiry at faihoku about the alleged air crash. From the office of the Japanese Foreign Ministry, Shah Nawaz Khan rang Jawaharlal Nehru and Jawaharlal instructed him not to visit Taihoku under any droumstances. Suresh Chandra Bose, brother of "etaji wanted to visit alone, but the Japanese Foreign Minister told him that in view of the attitude of the then Prime Minister of India, the Japanese Foreign Minister was not in a position to accede to his request. It is clear from the above facts that Jawaharlal Nehru did not want any proper enquiry to be held about the alleged air crash. Nehru wanted a cooked up report stating that Netaji had died in Taihoku as a result of an air crash. Shah Wawaz Khan and Shankar Maitra submitted a report according to the dictates of "ehru, but Suresh Chandra Bose did not sign that report. He submitted a dissenting report.

32. In September 1957, I was invited by the Organising Committee of Whefirst All World Anti-Atom Bomb Conference, to attend it as an Indian delegate. The Conference was held in Kyoto. The Conference was sponsored by the Japanese Government. When I arrived in Tokyo to attend the Conference, I was made a guest of the Japanese Government and was

Attache of the Indian Embassy attended the Indian of the Embassy.

I endlose herewith a xerox copy of a photograph taken on the toccasion with the Chief of the Foreign Affairs Bureau of the Japanese Government which is marked with the letter 'C'.

23. The person who invited me to lunch was also the Chief of the Foreign Affairs Bureau under the Japanese Foreign Minister Shigemitsu. Shigmitsu had died before I arrived in Tokyo. The Chief of the Japanese Foreign Affairs Bureau told me how Jawaharlal Mehru had prevented the visit of the members of the Shah Nawaz Committee to Taihoku in 156. I may mention here that Taihoku Airport was located in the same place in 1956 as in 1945. Subsequently, the Airport has been built in a different area and a number of hotels have been built at the site where the airport was located in 1945 as well as in 1956.

34. When Indira Gandhi was the Prime Minister of India a large number of members of Parliament demanded a fresh

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enquiry to go into the circumstances of Netaji's disappearance. Indira Gandhi appointed a retired Judge of the Punjab High Court G.D. whosla to head the one-man En uiry Commission. The counsel appearing for the National Committee, which was formed to assist the Enquiry Commission, served a subpoens on the Government of India to produce all the relevant documents regarding Netaji from the Prime Minister's Office. In answer to the subpoens the Government of India informed the Khosla Commission that the following secret files were either missing or destroyed:

### SECRET

file No. F.23(156)/51-PM.

## "PAPERS DESTROYED"

- S.Nos. 1A, 2-A, 3-A, 6-A, 8-A.
- S.No. 16A J.O. Note No. D/S-8666, dated August 24, 1953, from PM's Sectt. to Shri Mohd.
  Yunus, MEA (SEA. BE)
- S.No. 17-A U.O. Note No. D. 3788-8EA/53, dated

  August 27, 1953, From Shri Mohd. Yunus,

  M.B.A. (SEA BR) to P.M's Sects.
- S.No. 27-A Memo No. 2/53/19713/601(151) dated
  October 13, 1953 from Shri Mohd. Yunus
  US, MEA (SEA) to PM's Sectt.

- S.No. 33-B Letter No. 20/62 (Acgts) dated April 12,
  1954, from the Joint Secretary, All India
  INA Enquiry and Relief Committee, 82,
  Daryaganj, Delhi to the fresident.
- 3.No. 33-D Gutting from the Amrita Bazar Patrika,
  dated April 3, 1954 Property formerly
  held by INA Custodian at Singapore decides
  to dispose of.
- S.No. 34-A Rajya Sabha's starred Question No. 560, dated September 28, 1954.
- S.No. 35-B Note for supplementaries.
- 3.No. 37-A Lok Sabha Starred .uestion No. 334 dated August 2, 1955.
- S.No. 37-BCD Enclosures to S. No. 37-A"

#### "AND NOTES

11, 12, 13, 14, 15, 18, 19, 23, 24, 25, 26 and 29 (Destroyed)

# "PRIME MINISTER'S SECRETARIAT FILES.

- 1. 23(156)/51-P.M. Indian National Army (INA) in the far East.
- 2. 23(11)/56-57-PM. I.N.A. Treasure.
- 3. 12(226)/56-PM. Investigation into the circumstan-(written in pencil - since destroyed) ces leading to the death of Subhas Chandra Bose."

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'D'

Md. Yunus is still alive. He can be called upon by this
Hon'ble Court to explain under whose orders and for what
reason so many vital files regarding Metaji Subhas Chandra
Bose were destriyed and at what point of time.

35. On 22 June, 1991 a telegram was sent to the Regional Passport Officer in Calcutta from the External Affairs Ministry to collect information from me in response to a Parliament question regarding the assets of the Azad Hind Government. I was interviewed by the Regional Passport Officer at my residence on 24 June, 1991 when I made a statement regarding the matter.

I enclose herewith xerox copies of the telegram sent by the External Affairs Ministry as well as my statement regarding the matter which was duly forwarded to the Government of india. The said copies are annexed hereto and marked with the letter 'D'.

- in the Prime Minister's Secretariat has been destroyed. I have no doubt in my mind that some person or persons in the Government of india have misappropriated huge assets of the Azad Hind Government at the time when Jawaharlal Nehru was the Prime Minister.
- .36. Khosla Commission as expected submitted a report to the Government of India stating that Netaji died in an

air crash at Taihoku in August 1945. Justice Ahosla, before he submitted his report to the Government of India, published a book in which he described Netaji as a "Quisling" and "a Japanese agent". I am firmly of the view that Indiara Gandhi had appointed Justice Khosla o that he may defeme and dishonour Netaji. I had known Indira Gandhi since 1928 and I know that her animosity for Netaji was as instense as that of her father.

- 36(6) A cousin of mine filed an action for criminal defamation against Justice whosla before the court of the Chief Fresidency Magistrate, Calcutta. Justice whosla appeared before the Court, tendered an unqualified apology and also promised to withdraw his book from circulation.
  - 37. When the Janata Government took power at Delhi both the reports of the hah Nawaz Committee as well as the whosla Commission came up for consideration by Parliament. There was a prolonged giscussion in Parliament about the matter and ultimately the Prime Minister Morarji Desai made a statement in Lok Sabha on September 3, 1978 to the following effect.:

"Shah Nawaz Committee and Khosla Commission held
the report of Netaji Subhas Chandra Bose's death
as true. Since then reasonable doubts have been
cast on the correctness reached in the two reports
and various important contradictions in the testimony

of the witnesses have been noticed. Some furth-r contemporary official documentary records have also become available. In the light of those doubts and contradictions and those records, Government find it difficult to accept ant the earlier conclusions are decisive."

- 38. In view of the above decision of the Government of India on 3 September 1978, I submit that this Hon'ble Court should not place any reliance on the findings of the Shah Nawaz Committee and the khosla Commission.
- 39. At the same time I would mention that when Dr.

  3. Radhakrishnan became the Indian Ambassador in Moscow in 1949, Sarat Chandra Bose wrote a letter to him requesting him to make an enquiry in Moscow about Subhas Chandra Bose and one Atani Mukherjee, an Indian Communist. As Sarat Chandra Bose had no faith in Jawaharlal Nehru, he took the assistance of Sardar Fatel to have his letter delivered personally to Dr. madhakrishnan. Dr. Radhakrishnan, however, did not reply to Sarat Bose's letter.
- 40. When Gorbachev came to power he announced that two Indian Communists, namely, Abani Mukherjee and Virendranath Chattopadhya, a brother of Mrs. Sarojini Naidu, were executed in the Soviet Union under ofders of Stalin. The files of A.G.B. regarding the assassination of the abovetwo Indian Communists are still available in Moscow.

in any air crash. Jawaharlal Nehru utilised Chah Nawaz

an air crash in order to mislead the Indian people.

Ahan to prepare a false report stating that Bose died in

In 1990, one Dr. Bhairab Danerjee, who was then 42. associated with Frinceton University in America, discovered an original letter dated 22 July, 1946 xtix written by Khurshed Naoroji to Louis Fischer in the Library of the Princeton University. Apart from this letter to Louis Fischer by Khurshed Naoroji there are many other papers belonging to Louis Fischer inthe Library of the Princeton University. Louis Fischer wrote his "Life of Lenin" with financial assistance from the Princeton University. His book on Lenin was first published in London in 1965. Before publication of Lenin's life he had written a number of other books, namely (1) The Life of Mahatma Gandhi, (2) A Week with Gandhi, (3) Stalin and Hitler (4) The Life and Death of Stalin. Ocuis Fisher was well connected with the American Administration in 1946. He had been to the Soviet Union and had personally known Lenin, Stalin and other Russian leaders.

I had known Gandhiji intimately from the 43. beginning of 1945 till his assassination in January 1948. I have no doubt whatsoever that the British Intelligence. had informed Ganani that Suchas Bose was alive in July 1946 and that he was then living in Russia. I know that Gandhiji often used to get his close confidents to write letters on his behalf which he did not want to write himself. As already stated many such letters have been written by Mahadev Besai, dajkumari Amrit Aaur, Pyarelal, whorshed Naoroji and G.D. Birla. In fact, very important letters have been written to my father dealing with very personal matters by Rajkumari Amrit "aur on behalf of Gandhiji. The Letter of thurshed Waoroji is in fact Gandhiji's letter to Louis rischer. It is not possible to secure the original letter by whurshed Naoroji to Louis Fischer from the Library of Princeton University. I, therefore, seek to rely on its photocopy.

I enclose herewith a photocopy of that letter marked with the letter 'E'.

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Naoreji and I can identify her hand-writing from the photocopy which I have enclosed. This letter proves conclusively that Subhas Chandra Bose was alive in July 1946. This letter completely demolishes the story of the alleged air crash and falsifies the Shah Nawaz Committee's report as well as the report of the thosla Commission.

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a significant gentence in Khurshad Naoraji's letter is quoted below ?

" \* \* \* At heart the Indian Army is sympathetic with the Indian National Army. If Bose comes with the help of Russia neither Gandhiji nor Congress will be able to reason with the country. Also (if) Russia for propaganda purposes declares itself an Asisatic Country, then there is no hope of an Euripean alliance acceptable to India.

There is a clear hint in the letter that return of Subhas Bose to India would imperil the political survival of Gandhiji and other Congress leaders.

A5. In view of what I have stated above I call upon Prime Minister Narasingha Rao to disclose how, when and where Subhas Chandra Bose died after July 1946 as Prime Minister Rao decided to confer Bharat Ratna on Netaji posthumously.

Members of Netaji's family and the people of India can surely demand that the government of India disclose all the relevant materials about Netaji's fate after July 1946.

46. One Valentin Palin (VALENTIN FALIN) was the Soviet Ambassador to Bonn when Gorbachev was in power. Then Gorbachev fell from power, Falin gave up his

diplomatic assignment and is now living in Germany.

Falin was a member of the Central Committee of

C.P.S.J. He is now writing a book on Soviet Foreign

policy, during the last 30 years. According to

Falin all documents regarding political assassinations

are kept in the A.J.B. archives. Till recently GENNADY

BURBULIS, State Secretary in BORIS YELTSIN'S Government

was in charge of A.G.B. archives, Yeltsin had to drop

Burbulis from his Cabinet due to the pressure of

Communists in Aussia. Some of the K.G.B. files were

destroyed when the Communists in the Soviet Union were

removed from power. But the bulk of the files in

A.G.B. archives are still in existence. If Netaji had

been a victim of political assassination, A.g.B. archives

may give us some clue.

A7. I personally feel that the decision to confer Bharat Ratna on Netaji Subhas Chandra Bose, who was primarily responsible for liberating this country from British Imperialism, after having conferred Bharat Ratna Award on a number of political pygmies, was a deliberate act on the part of Prime Minister Marasingha Rao to insult and Dishonour Netaji.

That the statements contained in paragraphs 1, 2, 3, 4, 5, 6, 7, 8 (last part thereof) 10, 11, 12, 13, 14, 19, 20, 21, 22, 23 (last sentence thereof), 24, 25, 26, 27, 28 (partly), 29, 30, 31, 32, 33 (partly), 35, 36 (a), 39, 40, 41, 44 and this affidavit, 47 are true to my knowledge, those contained in paragraph 8 (except last part thereof ) and 9 of the same are based on the speeches of Netaji Subhas Chandra Bose, broadcast from Azad Hind Radio, Rangoon on 7.7.1944 and 12.9.44 and paragraphs 15, 16 & 37 (thereof are based on information derived from Newspaper reports and paragraphs 17 & 18 thereof from Domai News Agency and paragraph 23 (except last sentence thereof) from Jawaharlal Nehru and Bhulabhai Desai and paragraph 28 (partly thereof) from Jawaharlal Nehru and paragraph 33 (partly) from Foreign Affairs Bureau under Japanes Foreign inister, 34 from Newspapers Reports on and proceedings in Khosla Enquiry Commission, Paragraph & 42 based on information received from Dr. Bhairabh Banerjee of Princeton University, America, and 46 from Valentine Falin, the then Soviet Ambassador to Bonn and that the

paragraphs 8, 9, 15, 1617, 18, 23, 28, 33, 34, 37, 42 and 46 are verified by me from different sources as aforesaid and are believed to be true, while those contained in paragraphs 10, 35 (b), 38, 41, 43, 45 and 47 are my submissions before the Hon'ble Court.

Amiya Nath Bose

Barrister - at - Law

High Court - Calcutta

Annessiere A

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Recember 20. 1953.

Komakurs, Dapan. May & cepress my enicere thanks for your letter and kind greetings through Mr. Wasida, I am extremely pleased to hear the name of Netaji's Subbas Chandres Bose, Hero of Asia. whom I can claim as one time good and intimate friend of main which I naturally consider a great honour; Mr. Shigern Kuriyama, justice of the Supreme couch of Japan is one of my aldert friends and has wide knowledge of Leternational offairs. He is going to India to attend a international Conference and is much interested in your works. I gave him she pemphles on Sarah Rose academy which his waceda handed to me offer the relieved from your country. So please meet

him and give him informations whatever he would like to get from your manorushigemeter P.S. I and you my very bust wither for thristman and New year.

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mited States Copyright Law (Tide 17, U.S. Code) governs the making of photocopies of copy- righted material. The person making use of this photocopy is liable as y infringement of the law. Manuscripts copied from Princeson University Libraries holdings are not to be reproduced or published in whole or in part without the princesion of the Library.

during the last war both in India - releved. There have been men elestion to your own mian suaps in the y. 4. Femine at the beginning of the war. It hart the India army is sympathetis with the tracken national Aing Is Bose comes with the key of Hasia neithe Gandhiji nor the Congress will be able to were will the country, Also Alassa for propagate purpose obeles. itself an Asiati country then Thulis no loge of any European alliance acceptable to India. Fundam for India unche the agis of Soviet Igunia is no fendom for us; but it now with will lingland t play fair by the people of India on he declined by is for we so the ening of trake TE-EX

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## DISTRICT : CALCUTTA

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE.

C.O./C.R. (W) 199

In the matter of: an application under Article 226 of the Constitution of India

Bijan Ghosh, Advocate .. Petitioner

-vsUnion of India & anr. .. Respondents

Affidavit of Amiya Nath Bose in the above matter.

Advocate High Court, Calcutta IN THE HIGH COURT OF INDIA

Constitutional Writ Jurisdiction

( Appellate Side )

In the matter of:
An application for ad-interim
injunction;

- And -

In the matter of : C.O. 6720 (W) of 1993 ;

- And -

In the matter of:
Bijan Ghosh.

... Petitioner.

\_ Versus \_

Union of India & Ors.

... Respondents.

To

The Hon'ble Mr. A.M. Bhattacherjee, Chief Justice and His Companion Justices of this Hon'ble Court.

The humble petition of the petitioner abovenamed -

## MOST RESPECTFULLY SHEWETH :

1. The above tated writ application was moved in person by the writ petitioner as unlisted motion on 20.1.93,

-1 2 1-

upon notice to the Respondents and What Lordship, the Hon'ble Mr. Justice Umesh Chandra Banerjee was pleased to direct to serve notice upon Attorney General and to appear the matter as listed motion after 2 weeks, His Lordship was further pleased to add different persons as party respondents who supported the cause of the petition, waving the formalities treating the writ petition as a Public Interest Litigation.

- 2. Since the official declaration by Government of India, conferring the Title Bharat Ratna upon Netaji and that too posthumously vigorous aggitations took the Country into storm and blee countrymen, in single voice, asked the Government to withdraw the Title, such conferred upon him. Name on behalf of Netaji received the posthumous title from Government of India, till date.
- that the Government of India has planned to perform the official function and cerimony to conclude the Title conferring chapter bestowed upon Netaji. The Government of India declared officially in January 92 conferring Bharat Ratna upon him posthumously, but unless and untill the same is hand over to somebody/institution/organisa-ion/authority on his behalf or kept in National Musiam, Netaji would not be considered 'Bharat Ratna' as per Government

of India is concerned. For that reason Government of India is now inclined upon to perform the official cerimony, which is a part of conferring someone the Title Bharat Ratna, to conclude this chapter.

The Government of India, made a notification dated 20th March, 1992, regarding bestowing the Title Bharat Ratna upon Satyajit Roy. Till date that Title has not been conferred upon him following necessary observation of procedure formalities and as such this he is not yet a 'Bharat Ratna'. It is reported from the Ministry converned that within two weeks from date the necessary procedure and formalities would be observed to confer 'Bharat Ratna' upon Satyajit Ray.

A copy of the news paper cutting containing such report is annexed and marked with the letter "X".

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A writ application has been moved in Public Interest before Madya Prashed High Court and challenging the Constitutionality of conferring Title, like Bharat Ratna, Padma Bibhushan, Padma Bhushan and Padmashin. That Hon'ble Court had been pleased to grant an interim order restraining the Government of India from conferring such Title. A similar application had also been maved before the Hon'ble High Court at Kerala, and ad-interim order has been granted upon that application, since Article 18(1) stands in the way of conferring such Title.

- Such writ application were moved after the Government of India officially declared fonferring the Bharat Ratna upon Netaji, But, could not yet completed the procedure of conferring the Title upon him. (Netaji)
- An ad-interim order in granted. Government of India may conclude the procedure and formalities of conferring Bharat Ratna, posthumously, upon Netaji by handing it over to any individual / organisation/ institution/ athority or to National Musiamer and in that situation the alleged title, Bharat Ratna would be conferred upon Netaji and the chapter would be concluded.

Under the facts and circumstances
your petitioner submits that your
Lordships m ay graciously be pleased
to pass an ad-interim order of
injunction restraining the respondents
from handing over the alleged title
Bharat Ratna up conferred upon Netani
Subhas Chandra Bose posthumously, to
upon any person/organisation/institution/athority or to any other
statutory body like National Musiam
till disposal of this application;

And to pass any other order or orders as your Lordships may deem fit and proper.

And your petitioner as in duty bound, shall ever pray.

### AFFIDAVIT

I, Sri Bijan Ghosh, son of B.K. Ghosh, aged about 38, by faith Hindu by occupation Advocate, High Court at Calcutta, residing at B-172, B.E. College, Howrah-3, do hereby solemnly affirm and say as follows:

- 1. That I am the petitioner of the foregoing petition and as such I am acquainted with the facts and circumstances of this case.
- of the foregoing petition are true to my knowledge those contained in paragraphs 3, 4,4A thereof based on information derived from records which I verily believe to be true and those contained in paragraphs 6 ~ /coft thereof are my humble submissions to this Hon'ble Court.

Prepared in my office.

SLF Bifon aborh

Advocate.

Self By an Chorf
Deponent
In person Advocate.

Solemnly affirmed before me on this the max 2 wday of July, 1993.

## ঘোষণাই রয়ে গেল সত্যজিতের 'ভারতরত্ন'

ভূষিত সত্যঞ্জিৎ-জায়া বিজয়া রায় অস্তত সরকার হাত গুটিয়ে বসে থাকলেন। এখনও পর্যন্ত জানতে পারেননি এর আর কী তাৎপর্য থাকতে পারে। ঘোষণাটি নিয়ে তাঁর কোনও সংশয় নেই। কারণ তা সত্যিই করা হয়েছিল, রীতিমতো রাষ্ট্রপতির বিজ্ঞপ্তি জারি করে। তাই ওই পর্যন্তই বাস্তব। তারপর সবই অস্পষ্ট। আর তো কিছুই ঘটেনি।

আজ পর্যন্ত দিলির সরকারের কাছ থেকে বিজয়া রায় একটিও চিঠি পাননি। পদক, মানপত্র ইত্যাদির তো কোনও প্রশ্নই ওঠে না। পাননি এমন কোনও কাগজপত্র যা থেকে ভারতরত্ন উপাধি সম্পর্কে এর থেকে একচুল বেশি কিছু জানা সম্ভব। গ্ৰা তিনি নিশ্চিতভাবেই জানেন এ একটা সন্মান। অর্থের সঙ্গে যার কোনও দুরতম সম্পর্কও নেই।

সতাজিতের আগে রাষ্ট্রীয় এই সম্মানে ভূষিত ইয়েছেন মাত্রই দুংন বাঙালি: নেতাজি সুভাষচন্দ্র বসু ও বিধানচন্দ্র রায়। এ নিয়ে বাঙালির মর্মবেদনা স্বাভাবিক ৮ বিশেষত যখন

স্টাফ রিপোর্টার, কলকাতা ও নয়াদিলি, ১ এই তিনজনেরও একজনের ক্ষেত্রে খেতাব জুলাই—'ভারতরত্ন' কি শুধুই একটি ঘোষণা ? প্রদানের সম্পূর্ণ প্রক্রিয়াটি শিকেয় তুলে রেখে প্রয়াত চিত্রপরিচালক এবং ভারতরত্ন উপাধি প্রেফ একটি বিজপ্তি জারি করেই কেন্দ্রীয়

সত্যজিতের ক্ষেত্রে প্রক্রিয়ার শুরুট্রক যথোচিতই ছিল। প্রাক্তন রাষ্ট্রপতি রামস্বামী বেষটরামন ১৯৯২ সালের ২০ মার্চ এক বিজপ্তি জারি করে সত্যজিতের 'ভারতরত্ন' উপাধি প্রাপ্তির কথা ঘোষণা করেন। বিশ্ববরেণ্য চিত্রপরিচালক তথন মৃত্যুশয্যায়। ভারতরত্নে ভূষিত সত্যজিৎ রায়ের প্রথম মৃত্যুবার্যিকী পালিত হল গত ২৩ এপ্রিল। কেটে গেল রাষ্ট্রপতির ঘোষণা-উত্তর পদেরো

বাঙালির প্রতি কেন্দ্রীয় সরকার উদার্গীন---এই অপবাদ ঘোচাতেই সম্ভবত কিছু তৎপরতা <del>७क्र</del> इतारह । সেজনाই এই मीर्च विलक्षत, এই নীরবতার একটা ব্যাখ্যা দিতে একটু সরব হয়েছেন কেন্দ্র। সরকার প্রদত্ত এই ব্যাখায় আছে আইনের কচকচি। বলা হয়েছে দু'টি মামলার কথা।

ভারতীয় নাগরিকদের সমতা রক্ষার জন্য



নিবেদিত প্রাণ কোনও ব্যক্তি মধ্যপ্রদেশেই জব্দলপুর হাইকোর্টে একটি রিট আবেদন পেশ করেছিলেন। ওই আবেদনে তিনি বলেন. 'ভারতররু'-সহ 'পদ্মবিভূষণ'. 'পর্ম্বী', 'প্রভূষণ' ইত্যাকার অসুমেরিক খেতাব প্রস্ন भश्विधान विद्वाधी । কারণ এতে ভারতীয় নাগরিকদের মধ্যে ভেদাভেদ করা হচ্ছে।

ওই রিট আবেদনের িন্তিতে জনবংপুর হাইকোট এ জাতীয় খেতাৰ প্রদানের উপ্র একটি হণিতাদেশ ভারি করে নির্দেশ দেন, এই মামল্যটির নিম্পত্তি না-ছওয়া পর্যন্ত সরকার এ ধরনের কোনও খেতার প্রদান করতে পারকেন না অনুরূপ একটি রিট আবেদন সংগ্রহি কেরল হাইকোটেও দাখিল কর হয়েছে।

্কেন্দ্রীয় স্বরাষ্ট্রমন্থকের বক্তব্য, হাইকোর্টে এ জাতীয় রিট আবেদনের ফলে গুণিজনকে এইসব খেতাবে আর সম্মানিত কর সম্ভব হচ্ছে না। একই কারণে আনুষ্ঠানিকভাবে চিত্রপরিচালক সত ভিৎ প্রয়াত ভারতরত্ব খেতাব প্রদানের বাজটিও সং করা যাতে না।

খরাষ্ট্রময়কের এই মন্তব্য সভাঞ্জিৎ বাংগর ক্ষেত্রে কতটা প্রয়োজ্য সে বিষয়ে একটা সংশ্র তাবশ্য থেকেই যায়। সতাজিৎ বাংগে ভারতবত্তে ভূষিত করে রাষ্ট্রপতির বিজ্ঞান্তি যাতন জারি করা হয় সেই সময় দেশের তেনেও আদালতেই এ ধরনের কোনও খাবেদন পেশ করা হয়নি। আদাদতের কোনও প্রণিতাকে তো ছিলই না। अवश्व माभव शासाव

দশ] আঃ বাঃ পত্রিকা ২ জুলাই '৯৩

প্রথম পাতার পর

এট দীর্ঘ বিলম্বের জন্য কেন্দ্রীয় স্বরাষ্ট্রমন্থকের উপর চাপ আসতে থাকায় তাঁরাও বাধ্য হচ্ছেন এখন অন্যরকম ভাবতে। তারা কবুল করেছেন স্ত্যজিংকে আনুষ্ঠানিকভাবে খেতাৰ প্রদানের এই দীর্ঘ বিলম্ব অনেককেই আহত করেছে এবং এটি এখন 'অভান্ত স্পর্শকাতর' বিষয় হয়ে

মন্ত্রের একটি সূত্রে জানা গিয়েছে, তাঁরা ভাবছেন স্থগিতাদেশের আগেই ফেহেড় সত্যজিৎ রায়কে 'ভারতরত্ন' বলে ঘোষণা করা হয় তাই ওই স্থগিতাদেশ সত্যজ্ঞিতের ক্ষেত্রে প্রয়োজা নয়। অনুষ্ঠানটি তার। এখন ফুতই

### সত্যজিতের 'ভারতরত্ন

পশ্চিমবঙ্গ সরকার এবং বিভিন্ন মহল থেকে সেরে ফেলতে চান। সরাষ্ট্রমন্থক এ বিষয়ে আইনমন্ত্রকের সঙ্গে প্রয়োজনীয় পরামর্শও করে ফেলেছেন। আইনমস্থকের বক্তব্য, সত্যদ্ভিতের ক্ষেত্রে আনুষ্ঠানিক খেতাব প্রদান করা মেতে পারে। মন্ত্রকসূত্রে জানা গিয়েছে এই ব্যাপারে সপ্তাহ দুয়োকের মধ্যেই সিদ্ধান্ত নেওয়া হবে।

মানপত্র, পদক ও ভারতরত্বকে প্রদেয় বিশপ লেন্ডমা লোড়ে বিজয়া রায়ের কাছে পাঠিয়ে দেওয়া হবে, না কি রাষ্ট্রপতি ভবনের অশোক হলে রাষ্ট্রপতি শন্ধরদয়াল শর্মা বিভয়া হলে দেকেন মরগোভর तारसत হাত সিদ্ধান্ত নেওয়া হবে সে অস্ত্রপত্র নিয়ে হামলা চালায়। 'ভারতরত্ব'—

বন্দে মাতরম

৭২ বর্ষ ১১৪ সংখ্যা শুক্রবার ১৭ আষাঢ় ১৪০০

এর আগে রাজীব ব उत्सका, ব্যাপারেও। গান্ধীকে প্রদান মরপোত্র ভারতরত্ব-র পদক ও মানাপাত্র রাষ্ট্রপতি এই আশোক হলেই সোনিয়া शाकील हाटड दूरल निर्पाहित्तर ।

পোস্তার কাজ বন্ধ

বিপেটবি : वाक्षांट পোস্থা मीक অন্যান্য সামগ্রী সোজা কলকাতার ১ নম্বর একগ্রেণীর শ্রমিকের আন্দোলনের ফলে ওই কাছকর্ম ৩০ জন থেকে বাজারের সাভাবিক বন্ধ নামেছে কলে বালীতা লাজাব ব্যবসায়ী সমিতি জানিয়েছে। তাদের অভিযোগ, দু'টি সংগঠনের অমিকেরা ৮ দফা দারিতে করেকটি দোকানে

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-IN THE HIGH COURT OF INDIA

Constitutional Writ Jurisdiction

(Appellate Side )

C.O. No. 6720 (W) of 1993

In the matter of : Bijan Ghosh.

... Petitioner.

- Versus -

Union of India & Ors.

... Respondents.

PETITION

BIJAN GHOSH

ADVOCATI

Bar Association Room No. 11,

High Court, Calcutta.

STATE

TELEGRAM

SHRI S.K. KUNDU, CENTRAL GOVERNMENT ADVOCATE, BRANCH SECRETARIAT, MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS, 4-K.S. ROY ROAD, CALCUTTA.

NO.1/27/91-PUBLIC

DATED: 30TH JULY,1993.

REFERENCE THIS MINISTRY'S TELEGRAM OF EVEN NUMBER DATED 28TH JULY, 1993, AND LETTER NO.15/B/Home/93 Lit. III/600/2034 DATED THE 27TH JULY, 1993, SENT BY SHRI S.N. RAY, JUNIOR CENTRAL GOVERNMENT ADVOCATE ENCLOSING THEREWITH (I) COPY OF THE AFFIDAVIT ON BEHALF OF ADDED RESPONDENT, SUNIL KRISHNA GUPTA (II) AN APPLICATION FROM SHRI AMIYA NATH BOSE OF 226/4A NETAJI SUBHASH CHANDRA BOSE ROAD CALCUTTA WHO WAS MADE A PARTY TO THE WRIT PETITION C.O. NO.6720 (W) OF 1993 FILED BY SHRI BIJAN GHOSH AGAINST THE UNION OF INDIA AND OTHERS AN APPLICATION FOR AD-INTERIM ORDER FOR INJUNCTION AND SUPPLEMENTARY AFFIDAVIT BY THE PETITIONER (.) DIRECTED TO INFORM YOU THAT THE PARAWISE COMMENTS ALREADY SENT TO YOU VIDE THIS MINISTRY'S LETTER OF EVEN NUMBER DATED 20TH APRIL, 1993, COVER ALL THE POINTS RAISED IN THE MAIN PETITION OF SHRI BIJAN GHOSH AND THE AFFIDAVIT AND APPLICATION FILED BY SHRI SUNIL KRISHNA GUPTA AND SHRI AMIYA NATH BOSE(.) YOU MAY KINDLY HAVE THE AFFIDAVIT IN OPPOSITION FINALISED ON BEHALF OF UNION OF INDIA AND SENT TO THIS MINISTRY FOR COMPLETING THE REQUIRED FORMALITIES FOR FORMALLY FILING THE SAME IN THE HIGH COURT OF CALCUTTA(.) AS REGARDS THE ADDITIONAL POINT RAISED IN THE AFFIDAVIT OF SHRI GUPTA THAT BHARAT RATNA IS A TITLE WHICH HAVE BEEN ABOLISHED UNDER ARTICLE 18(1) OF THE CONSTITUTION OF INDIA IT IS CATEGORICALLY STATED THAT THE AWARD OF BHARAT RATNA IS NOT A TITLE ATTRACTING THIS POSITION MAY THE ABOVE CONSTITUTIONAL PROVISION(.) BE SUITABLY USED IN THE AFFIDAVIT IN OPPOSITION(.) THOUGH YOU PROMISED THAT THE AFFIDAVIT IN OPPOSITION DULY FINALISED IS BEING SENT WITH THESE PAPERS, THE SAME HAS NOT BEEN RECEIVED(.) YOU ARE REQUESTED TO HAVE THE AFFIDAVIT IN OPPOSITION FINALISED WITHOUT ANY FURTHER LOSS OF TIME TO ENSURE ITS EARLY FILING IN THE HIGH COURT OF CALCUTTA(.) AS ALREADY REQUESTED IN OUR TELEGRAM OF 28TH JULY, 1993, KINDLY ENSURE APPEARANCE ON BEHALF OF UNION OF INDIA IF THE MATTER IS HEARD ON 2ND AUGUST, 1993 AND SEEK EXTENSION FOR SUITABLE TIME FOR FILING COUNTER AFFIDAVITS ON BEHALF OF UNION OF INDIA(.) HOME NEW DELHI

N.T.T.

(V.P. BHATIA) UNDER SECRETARY TO THE GOVT. OF INDIA.

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NO.1/27/91-PUBLIC

DATED: 30-7-1993.

Copy by post in confirmation to Shri S.K. Kundu, Central Government Advocate, Branch Secretariat, Ministry of Law, Justice & Company Affairs, 4, K.S. Roy Road, Calcutta, with the request that the Affidavit-in-Opposition based on the parawise comments already sent may be finalised and sent to this Ministry for doing the needful and early return to you for formally filing in the High Court at Calcutta. As already stated Bharat Ratna and Padma series of Awards are not Titles and are not to be used as such either before or after the name of any person. A copy of the Press Note issued in this behalf is also enclosed for your ready reference. Kindly reply by return message.

(V.P. Bhatia)
Under Secretary to the Govt. of India.

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By speed Post

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V.P. Bhatia, Under Secretary(Pub. & Vig.), Tel.No.3012421.

D.O.No.1/27/91-Public

1 Dataus 1798-1993.

Dear Shri Kundu,

Kindly refer to Shri S.N. Ray, Junior Central Government Advocate's letter No.15/B/Home/93 Lit.III/600/2034 dated the 27th July, 1993, enclosing therewith a copy of the Affidavit on behalf of added Petitioner, Shri Sunil Krishna Gupta, copy of petition filed by Shri Amiya Nath Bose, co-Petitioner; a copy of the supplementary Affidavit by Shri Bijan Ghosh and an adrinterim application for injunction by Shri Bijan Ghosh in petition No.C.O.6720(W) of 1993 filed in the High Court of Calcutta by Shri Ghosh.

As desired therein parawise comments in respect of the petitions filed by co-petitioners S/Shri Sunil Krishna Gupta and Amiya Nath Bose; parawise comments in respect of the supplementary Affidavit, and-interim application for injuction filed by Shri Bijan Ghosh have been prepared and are sent herewith. It is requested that the Counter-Affidavit on behalf of Union of India in respect of the main writ petition filed by Shri Ghosh based on the parawise comments already sent to you and similar Counter Affidavits in respect of the parawise comments now being sent to you in respect of the petitions filed by the added Petitioners; supplementary petition and application for ad-interim injuction may be prepared and sent to this Ministry for necessary execution and returning to you for formally filing in the High Court at Calcutta. It would be appreciated if the exact position about finalisation of the Counter-Affidavits on behalf of the Union of India is communicated to this Ministry at your earliest by return Speed Post.

As already requested kindly confirm that an appearance was put in on 2nd August, 1993, on behalf of the Union of India, the date intimated by Shri Bijan Ghosh fixed for next hearing in the Hon'ble High Court at Calcutta. Also indicate upto what time Hon'ble Court has granted extension for filing Counter Affidavit on behalf of Useon of India.

4. It is requested that the process of finalising the parawise comments in the matter may kindly be accorded top priority.

With regards,

Yours sincerely,

9 (V.P. Bhatia)

Shri S.K. Kundu,

Central Govt. Advocate, Branch Secretariat, Ministry of Law, Justice & Co. Affairs, 4,K.S. Roy Road, Calcuttas

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PARAWISE COMMENTS IN RESPECT OF AFFIDAVIT ON BEHALF OF ADDED PETITIONER SHRI SUNIL KRISHNA GUPTA IN THE WRIT PETITION C.O. NO.6720(W) OF 1993, FILED IN THE HIGH COURT OF CALCUTTA BY SHRI BIJAN GHOSH:

Paras 1 & 2: Require no comments.

Para 3: With reference to the contentions of the Petitioner in para 3, no comments are required as this is a statement by the added Petitioner based on his personal knowledge.

Para 4: No comments.

Para 5: The contention of the Petitioner in para 5 is incorrect and is denied.

Para 6: No comments.

The contentions of the Petitioner in paras 7 & 8 of the Affidavit are incorrect and are denied because Paras 7 & 8: nothing contained in the Constitution debars the Government from extending recognition to individual acts of outstanding merit by way of 'orders and decorations', in the sphere of social work, art, science and literature, to acts of gallantry in the battle field and any other fields of service and to acts of conspicuous devotion to duty in general. A Press Note was issued by the Government of India on April 17, 1968, making it abundantly clear that the use of Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letterheads, invitation cards, posters, books etc. is against the scheme of the Government as these Awards are not titles and their use along with the names of individuals is contrary to the spirit of the Constitution which has abolished titles. A copy of the said Note is annexed herewith. It was also emphasised in this Press Note that no civilian award should be affixed or prefixed with the name of the awardee to give an appearance of a title. It is further denied that the decision to confer Bharat Ratna on Netaji Subhash Chandra Bose was a dishonour to him, since this decision was taken by the Government keeping in view the relentless and valiant struggle and contribution made by him for the cause of India's freedom.

Para 9: The contention of the Petition in para 9(a) to (d) is partly a reproduction of certain portions from the publication "Bangladeshar Itihas-Vol.IV" and partly his own feelings about Netaji and as such need no comments except that Award of Bharat Ratna announced for Netaji is not a dishonour to the great leader.

Paras 10 & 11: No comments.

Paras 12 to: As the position stated in these paras is mostly quotations from certain publications/statements attributed to various leaders etc., these need no comments.

Paras 24: On 7th August, 1991, in connection with a special mention by Shri Pramod Mahajan, M.P., Rajya Sabha, Members present had urged the Government to confer Bharat Ratna posthumously on Maulana Abul Kalam Azad and Shri Subhash Chandra Bose. Keeping in view the sentiments of the Hon'ble Members and in recognition of their public service of the highest order, the names

of Maulana Azad and Netaji were approved byy the President of India for the award of Bharat Ratna and the same were announced on 23rd January, 1992. Hence, it is wrong to say that the people of India did not accept the conferment of Bharat Ratna on Netaji. However, to avoid any unnecessary controversy, the Government decided notwithstanding the earlier announcement made on 23rd January, 1992, not to take any further action in the matter and to treat the same as closed. Government have already accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an aircrash at Taihoku on 18th August, 1945.

- Para 27: As regards a high level probe by an Expert Committee alleged to have been ordered by the then Prime Minister, Shri Chandrasekhar, no records are avilable in this Ministry.
- Para 28: The contention of the Petitioner in para 28 is unfounded in view of the fact that the Government have already accepted the reports of Netaji Inquiry Committee and the Khosla Commission about the death of Netaji in an aircrash on 18th August, 1945.
- Para 29: Needs no comments in view of the position that Government have already decided not to pursue the matter any further.
- Para 30: Requires no comments as Government have already got the mystery surrounding the disappearance of Netaji investigated through Netaji Inquiry Committee and Khosla Commission.
- Para 31: No comments.
- Para 32: No comments.
- Paræ 33 to No comments as these are the versions attributed to Shri U.M. Thevar, ex-M.P. about his Press Conference at New Delhi and the questions Lhe asked Shri Shah Lwhich Nawaz Khan, Chairman at the time of his appearance before the Netaji Inquiry Committee.
- Para 37: Calls for no comments.
- Para 38: Calls for no comments at it is a matter of individual opinion.
- Paras 39 to The contents of these paras are irrelevant in view of the acceptance by the Government of India of the findings of the Netaji Inquiry Committee and of the Khosla Commission.
- Para 42: The contention of the Petitioner in para 42 is not relevant in view of the fact that Government have already accepted that Netaji died in an aircrash at Taihoku on 18th August, 1945.
- Para 43: The statement was made by Shri Morarji Desai, the then Prime Minister, in Lok Sabha on 28-8-1978 and not on 3rd September, 1978, as claimed. This statment by Shri Desai did not amount to outright rejection of the conclusions arrived by the Netaji Inquiry Committee and the Khosla Commission. Besides, at the end of

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his statement, Shri Desai also added that no useful purpose would be served by having any further inquiry.

Para 44: In view of the stand of the Government not to pursue any further the matter of award of Bharat Ratna on Netaji Subhash Chandra Bose, the petition itself needs to be rejected outright.

Para 45: Needs no comments.

2. In view of the position explained in the foregoing paragraphs, the contentions of the Petitioner merit outright rejection. It is prayed accordingly.

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### PARAWISE REPLY IN RESPONSE TO PETITION FILED BY SHRI AMIYANATH BOSE:

Paras 1&2: No comments.

Paras 3 & 4: The contentions of the Petitioner in paras 3 & 4 are not correct and are denied. The Award of Bharat Ratna is conferred for exceptional services towards the advacement of art, literature and science and in recognition of public service of the highest order. The decision to confer Bharat Ratna posthumously on Netaji Subhash Chandra Bose was taken keeping in view his relentless and valiant struggle and significant contribution for the cause of India's freedom and the intention of the Government was to accord the highest civilian recognition by way of conferring Bharat Ratna on him. It is denied that in conferring Bharat Ratna on Netaji, Government have in any way dishonoured him.

As regards the contentions of the Petitioner relating to death of Netaji, it may be stated that the Government accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an aircrash in Taihoku on 18th August, 1945. It was accordingly that in the President's announcement on 23rd January, 1992, the award was regarded as "posthumous".

Paras 5 to: No comments.

Para 29: As already stated, the Government accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an aircrash at Taihoku on 18th August, 1945.

Paras 30 to : No comments. 34

Para 35: The contents of this para are not relevant to the main question at issue, namely the death of Netaji in an air-crash which has been accepted as a fact by Government of India.

Para 36: No comments.

The statement made by Shri Morarji Desai, the then Para 37: Prime Minister, in the Lok Sabha on 28-8-78 (not on September 3, 1978, as contended by the Petitioner) did not amount to outright rejection of the conclusions arrived at by the Netaji Inquiry Committee and the Khosla Commission. Shri Desai only stated that reasonable doubts had been cast on the correctness of the conclusions reached earlier. Also, some contradictions in the testimony of witnesses had been noticed and some further contemporary official documentary records had also become available in the light of all of which it would be difficult to accept the earlier conclusions as decisive. However, Shri Morarji Desai also added that no useful purpose would be served by having any further inquiry.

Para 38: In view of the categorical statement of Shri Morarji Desai to the effect that no useful purpose would be served by having any further inquiry, findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an aircrash

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at Taihoku on 18th August, 1945 and duly accepted by the Government, would hold good.

Para 39: No comments.

Para 40: No comments as the contentions of the Petitioner in this para are not relevant to the Petition under consideration.

Para 41: The contention of the Petitioner calls for no comments as it is based on his personal knowledge and suspicion about a particular Intelligence Report.

Para 42: No comments.

Para 43: No comments.

Para 44: The contention of the Petitioner in para 44 is denied in view of the fact that the aspect relating to the death of Netaji has been gone into exhaustively both by the Netaji Inquiry Committee and the Khosla Commission reports of which have already been accepted by the Government.

Para 45: In view of the information contained in the reports of the two Commissions under reference, nothing further is required to be communicated by the Government by way of any additional information.

Para 46: In view of the various documents submitted in the evidence and considered by the two Commissions and in the absence of any specific clue to the contrary and Government having already accepted the conclusion that Netaji died in an aircrash on 18th August, 1945, no useful purpose would be served in the matter of death of Netaji by taking up with the concerned authorities of archives of K.G.B. as contended by the Petitioner in para 46 of the Petition.

Para 47: As already stated, the contention of the Petitioner that conferment of Bharat Ratna on Netaji was a deliberate act to insult and dishonour him is his personal opinion. It amounts to an insinuation and is denied.

Para 48: No comments in view of the position already stated in response to the various paragraphs of this Petition.

2. In view of the position explained in the foregoing paragraphs the contentions of the Petitioner merit outright rejection. It is prayed accordingly.

RESPECT OF SUPPLEMENTARY AFFIDAVIT TO

PARAWISE COMMENTS IN RESPECT OF SUPPLEMENTARY AFFIDAVIT TO WRIT PETITION C.O. NO.6720(W) OF 1993 FILED IN THE HIGH COURT OF CALCUTTA BY SHRI BIJAN GHOSH.

Para 1: No comments.

Para 2: The contentions of the Petitioner in para 2 are not contested except that Netaji Inquiry Committee was appointed by the Government of India as per Notification No.F.30(26)FEA/55 dated the 5th April, 1956, consisting of Shri Shah Nawaz Khan, M.P. and Shri Suresh Chandra Bose, elder brother of Netaji and Shri S.N. Maitra, ICS, Chief Commissioner, Andaman & Nicobar Islands. Shri Radha Binode Pal was not taken in this Committee. All the Members agreed that there had been an aircrash at Taihoku in Formosa in which Netaji met his death; that he was cremated there and the ashes were lying at the Renkoji temple in Tokyo. Subsequently, however, Shri Bose took a different view and did not sign the report.

Para 3: No comments.

Paras4,: The one man Commission of Inquiry into the disappearance of Netaji consisting of Shri G.D. Khosla, retired Chief Justice 5 & 6 of the Punjab High Court as sole member in the course of proceedings of the Commission of Inquiry afforded three separate occasions to Prof. Samar Guha testifying before the Commission and it was only after giving full opportunity to Prof. Samar Guha and others that Shri Khosla submitted his report to the effect that Netaji died in an aircrash at Taihoku on 18th August, 1945, and that two days later, Bose's body was cremated and his ashes were carried to Tokyo in the beginning of September, 1945 where they were deposited in the Renkoji temple. This report of the Commission was accepted by the Government and the report along with the Memorandum of Action Taken thereon was laid on the Table of both the Houses of Parliament on 3rd September, 1974. The statement made by Shri Morarji Desai, the then Prime Minister, in the Lok Sabha on 28-8-78 (not on September 3, 1978, as contended by the retitioner, and the conclusions arrived at by the to outright rejection of the conclusions arrived at by the Khosla Commission. Shri Desai only stated that reasonable doubts had been cast on the correctness of the conclusions reached earlier. Also, some contradictions in the testimony of witnesses had been noticed and some further contemporary official documentary records had also become available in the light of all of which it would be difficult to accept the earlier conclusions as decisive. However, Shri Morarji Desai also added that no useful purpose would be served by having any further inquiry. As regards the contentions of the Petitioner in para 5 of this supplementary petition, attention is invited to the reply to para 18 of the main writ petition that documents etc. published in the "Transfer of Power 1942-47" have no direct bearing on the aspect of death of Netaji Subash Chandra Bose. As regards the contentions of the Petitioner about the stay of Netaji in Soviet Russia, in view of the acceptance by the Government of his death on 18th August, 1945 in an aircrash, no comment is called

Paras 7: In view of the position already stated about the death & 8 of Netaji in an aircrash on 18th August, 1945, the contentions of the Petitioner in paras 7 & 8 are not relevant and call for no comments.

Para 9: In view of replies to paras 2 to 4 of the main petition, the contentions of the Petitioner now made in para 9 about posthumous award of Bharat Ratna to Netaji needs no comments.

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- Paras 10: As already stated in reply to paras 5 to 8 of the main petition, keeping in view the widespread public reaction and criticism and to avoid any unnecessary controversy, the Government have decided, notwithstanding the earlier announcement, not to take any further action in the matter and to treat the matter as closed. In view of this decision all other contentions of the petitioner are irrelevant.
- Para 12: With reference to the contention of the Petitioner in para 12 of the supplementary petition, as earlier stated, Government of India has already decided not to take any further action in the matter of conferment of Bharat Ratna on Netaji and to treat the matter as closed.
- Paras 13: The contention of the Petitioner in para 13 is denied since & 14 Government of India had already accepted that Netaji died in an aircrash at Taihoku on 18th August, 1945.
- Paras 15: Calls for no comments as Government have already accepted & 16 the findings of both the Netaji Inquiry Committee and the Khosla Commission that Netaji died on 18th August, 1945 in an aircrash.
- Para 17: The contents of this para are irrelevant since Government of India have already accepted that Netaji died on 18th August, 1945 at Taihoku.
- Paras 18: In view of what has been stated in response to earlier & 19 paragraphs, the contentions of the Petitioner in para 18 call for no comments.
- Para 20: Calls for no comments.
- 2. In view of the position as already explained in response to the contentions of the Petitioner in the main petition and the position now explained in response to the contentions raised in this supplementary affidavit, the reliefs sought for by the Petitioner merit outright rejection. It is accordingly prayed.

## PARAWISE REPLY IN RESPECT OF AD-INTERIM APPLICATION FOR INJUCTION BY SHRI BIJAN GHOSH

- Para 1: Needs no reply.
- Para 2: The decision to confer Bharat Ratna posthumously on Netaji Subhash Chandra Bose was taken keeping in view his relentless struggle and contribution for the cause of India's freedom. However, keeping in view the widespread public reaction and criticism and to avoid any unnecessary controversy, the Government decided, notwithstanding the earlier announcement dated 23rd January, 1992, not to take any further action in the matter and to treat the matter as closed.
- Para 3: Since the Government has already taken a decision not to proceed any further in the mattex, the contentions of the Petitioner in para 3 are unfounded.
- Para 4: The contention of the Petitioner in para 4 with reference to conferment of Bharat Ratna Award on Shri Satyajit Ray has no relevance insofar as conferment of the Award of Bharat Ratna on Netaji is concerned.
- Para 4A: The stay granted by the Madhya Pradesh High Court was vacated by the same High Court on 20th January, 1993. Further, Government is not aware of any ad-interim order granted by the Kerala High Court.
- Para 5: In view of the position explained in response to para 3 above, Government of India is not contemplating any arrangements to confer the decoration of Bharat Ratna on Netaji Subhash Chandra Bose.
- Para 6: In view of the position stated in the foregoing paragraphs, the Petitioner's apprehensions are unfounded.
- In view of Government's decision not to proceed any further in the matter, the writ petition as also the application for ad-interim injunction merit outright rejection. It is prayed accordingly.

FAX No.0332485215.

F.No.15/B/Home/93./625 245 A. 6621

GOVERNMENT OF INDIA
Ministry of Law, Justice & Co. Affairs
Department of Legal Affairs
Branch Secretariat, Calcutta.

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4, K.S. Roy Road, Calcutta-1. Dated, the 6th August, 1993.

To Shri L.B.Sinate Director Ministry of Home Affairs Government of India North Block New Delhi - 110 001.

Sub: C.O. No. (W) of 1992
Bijon Kumar Ghosh
- Vs Union of India & Ors.

Dear Sir,

Enclosed please find herewith the copy of the Affidavit of added respondent No.5 namely, Dr.Sushanta Kumar Mitra for doing the needful.

Thanking you,

Yours faithfully,

Encl: As above.

Jr. Central Govt. Advocate.

I more diposition per the law or the law of the series of

### DISTRICT : CALCUTTA

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

( APPELLATE SIDE )

In the matter of :

C.O. No.

(W) of 1993;

And

In the matter of :

An application under Article 226 of the Constitution of India;

And

In the matter of :

Bijan Ghosh

.... Petitioner

-Versus-

Union of India and Obhers
.... Respondents

# NAMELY, DR. SUSANTA KUMAR MITRA.

I, Dr. Susanta Kumar Mitra, son of Late Nilmony Mitra, aged about 52, residing at 25-A, Bag Bazar Street, Cal-700006, by occupation Investigative Journalist and Social Worker, do hereby solemnly affirm and say as follows:

-:: (2) ::-

1. From News papers reporting I came to know that a Writ petition has been moved before this Hon'ble Court on 29th January, 1993 and the same was made returnable after 15 days. When the matter was taken/ on 4th February '93, an oral prayer was made on behalf of me to add me as a party respondent in this Writ application in support of the application, and His Lordship, the Hon'ble Mr. Justice Banerjee was pleased to add me as a party respondent to the writ application being respondent No.5 and all the necessary formalities were waved for addition of parties since His Lordship treated this writ application as a public Interest Litigation. I am a Ph.D. in Journalism and I am in search of the truth since last 15 years about the unsolved mystery of disappearing of Subhas Chandra Bose and reasons of conspicuous apathy on the part of Government of India on Netaji.

A xerox copy of the said order dated 4.2.93 is annexed AR-I and marked with letter AR-I.

- 2. I have received a copy of the said Writ metition and understood the contents and purports thereof. I support the cause of this Public Interest Litigation. The so called title 'Bharat Ratna' bestowed upon Subhas Chandra Bose by the President is nonest since such Title was conferred most unconstitutionally.
- 3. I state that I do support integrally the containts, averments, allegations and submission made in the said Writ

petition and in addition to that I incorporate the following paragraphs and cause to strengthen the validity, Legality and constitutionally of said petition, which are pertinant for adjudication of the Writ petition.

I state that the Union of India had acted unconstitutionally on conferming the so called title 'BHARAT RATNA' to Netaji Subhas Chandra Bose. Bharat Ratna is treated as the highest Civilian title and it is conferred by the highest executive post of the State that is the President of India. Article 18(1) of constitution stands in the way of confering any title to any person, excepting which are of a military or academic distingtion. Article 18(1) runs as follows: "No title, not being a military or academic distinction, shall be conferred by the State . " Constitution is the supreme law of the land and Article 18 occurs in Part IKI which is being the Chapter of Fundamental Rights of any citizen by any way whatsoever, if not emergency is proclaimed. Som not only in case of Netaji Subhas Chandra Bose but of all other persons to whom any title of any order (may it by the highest or the lowest) had been conferred so far by the State. Excepting Military and academic distinction, the and every unconstitutional act on the part of State is liable to be said aside by the Hon'ble Court.

contd . . . . p/4

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The wisdom of the Constitutional makers had been 5. totally dishonoured by this practice of conferring tile to different citizen of India and other EXEMP countries. Indian Sub-continent was under the colonial rule of British and the Britishers used to 'purchase' different colonial subjects by conferring some titles, vix. Knight, Roy Bahadur, Sir, etc. To make India liberated from such colonistic garbagesentiment, the makers of the constitution made it categorical and cardinal, theat State shall not confer any title, vertually which supplements the approach and elements of Article 14. Out constitution has a socialistic flavour and as such title and if that is done that will frustrate the fundemental rights of the other citizens to whom no title has been conferred. Title means distinction and bestowed by the pleasure of the Throne and as such no title be there in a Socialistic Democracy. In support of that I quote from Tagore : " हार्य राया में ने के के ने कार के ने कार के ने कार कार कार कि

and colonialism for a millennium and as a matter of fact the national Leaders could not been able to made themselves free from that slavery mentality and this bad practise of conferring such title is a manifestation of that mentality. Inspite of the wisdom of the constitutional framers, this particular practice of conferring title was adopted by

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Mr. Neheru, who claimed himself as the 'last Britisher' to rule India. If this system of conferring title is allowed to be perpetuated in that typical British manner. with utter disregard to the supreme law of the land, that would be the must undortunate and unwanted practice. Perhaps for that reasons the Union of India did not confer any title to any body when it was run by/Janata Party/Janata Dal/and to Socialistic Janata Dal. It is a matter of fact, that all the 26 persons who were conferred with the alleged title 'Bharat Rataa' before the Government headed by Marashima Rao. were selected by Neheru-Gandhi family. About such 'Bharat Ratnas' the public opinion is, to satisfy their political need and vested family interest, 'Bharat Ratna' were given only to these persons who can satisfy such requirement of Gandhi-Neheru family. Netaji Subhas Chandra Bose, by rank was the 27th person to who the said alleged title was conferred and that too along with the other recipient Maulana A.K. Azad and it took only 45 years to recognise (7) Netaji, if is not motivayed and purposive.

7. Since this so called title has almost become a political gift or victim of entitlement, the Government of India headed by Janata Party in 1977 discarded this title giving ceremony. This 'State recognition' had lost its honour in 1971 when the then Prime Minister, Indira Gandhi.

declared himself a 'Bharat Ratna' and State confer the title upon her, This is to put on records that a writ petition is pending disposal before the High Court at Rajasthan, which challenged the 'Bharat Ratna' title conferred upon Neheru, Indira and Rajib Gandhi.

- 8. The public opinion is, had the death of Rajib Gandhi be not a pathetic one caused by an accident, the State would not confer the title Bharat Ratna to Rajib Gandhi posthumously. As if it is an obligation on the part of Narashima Rao personally. Had there been no death of Rajib Gandhi, Narashima Rao cannot get the chance to be the Prime Minister of India. If contribution to the country is considered, why not Lal Bahadur Shastri who also died in foregin land as a victim of violance and conspiracy? That was also a pathetic death cause by an accident but he was not yet been conferred with title Bharat Ratna. Simply a pathetic accidental death can made a man 'Bharat Ratna'.
- Bharat Ratna is a title. It is not an award, not a prize, not a decoration or ornamentation. Only title is given posthumously, prize or award is not given posthumously. Every award have a consideration or value attached. Only in case of a title, no such matterial question is involved. Bharat Ratna is not involved with any such matterial consideration, Bharat Ratna is absolutely a title and as such no title can be given by the State to any persons and in true

honour of the Constitution, Bharat Ratan and such similar titles, so far have been given to different persons since Independente, should be taken back and/or withdrawn. And further to that, in future no Titles be given by the State, excepting academic and limitary.

- 10. I state that allged 'Bharat Ratna' has been given to Netaji purposively and with ulterior motives. To declare him dead by the State in official capacity, the plea of conferring him a title posthumously has been adopted. It has been taged with Maulana Azad, only to given the impression to the public that as if this time 'Bharat Ratna' have been given only to the persons who is dead. Khan Abdul Gaffur Khan was conferred with Bharat Ratna long back and there is no reasons to recognise Maulana Azad long after Gaffur Khan, dispossionately it may be well concluded that the contributions of Azad was much more than that of Abdul Gaffur Khan.
- 11. An Investigative Inquiry was ordered by Chandra Sekhar the then Prime Minister of India not only for the cause that the people of India were not satisfied with the findings and reports of the two so called inquiry commission but the Government was in possession of let of documents and evidences which simply over ruled the finding

and reports of the two earlier inquiry commissions but kikik till date that order of Investigative Inquiry Commission has not been executed. It was reasonably doubted by the people of India that the State archieve of the then Soviet Russia was in position of authenticated records and documents related to the said mystery. The Soviet Russia was disintregated with effect from 25.12.91 and the said State archive became accessible to public. It is presumably doubted that the announcement of bestowing a posthumously titled to Netaji was made in a hurry on 26.1.92. Only to avoid the consequences of facing the truths and facts related to Netaji as lying in State archives of the then Soviet Russia and K.G.B., since became assessible after the Enix Christmas, 1991. It was reported in Hindutan Times dated 5.3.90, Calcutta "Dr. E.S. Yarlova of Soviet Institute of Oriental Studies, Moscow, told Hindutan Times here today that wo Soviet scholers who had been working on the Indian NationxLeaders. had applied to the Government for permission to examine the documents. The documents were categorised as 'top secret' and had never been made accessible". Nation Leaders in last 45 years gave different letters to the then Soviet Russian authorities to hand over the documents and papers related to Netaji but all the times the letters went unanswered. The contensions of those letters were never denied by such authorities. It can be thus concluded that those were admission by such authorities, following the principles of 'admission by non-traverse'.

Only to turn the fact back most purposively from the mines of information, to shut the doors up from any further inquiry regarding Netaji and the involved mystery, Netaji was declared death under the camouflage of a title conferred posthumously. Instead of causing any further integrated investigation in the different parts of the world in the changed international situations, more particularly from Russia, the Union of India coferred Netaji a title posthumously, which proves beyond all doubts the purposive and perversive intensions in conferring such title. Only to confer a title POSTHUMOUSLY, Netaji was bestowed with 'Bharat Ratna'.

one man commission was constitute to find out the facts and the truth behind his mysterious disappearance. Such committee was ordered by the then Prime Minister Mr. Meheru under the public demand. It was named Shah Nawaz was throughly disagreed by the country. Mr. Shah Nawaz was subsequently appointed as a cabinet Minister of Neheru's minister.

It is needless to mention that the Reports, findings and observations of Netaji Inquiry committee has got no bearing

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and is not binding upon, since subsequently one man judicial inquiry commission was apponted in 1970 by Indira Gandhi, the then Prime Minister for the same business. Hence Shah Nawaz Committee became a ullity. The said inquiry commission namely Khosla Commission submitted is report in the parliament in 1974. It was announced on the floor of the parliament at the time of submitting the report of Khosla Commission that the inquiry committee has submitted a report of some 237 pages (as recorded in Parliamentary Proceedings) but subsequently it was found that the volume of Khosla Commission report is only 137 pages. The findings of Shah Nawaz Committee report and the country did not accept the said findigns too.

Committee 1958 were "to entire into and to report to the Government of India on the circumstances concerning the departure of Netaji Subhas Chandra Bose from Bangkok about the 16th August, 1945, his alleged death as a result of an aircraft accident and subsequent developments concerned the rewith". The concluding portion of the report Chapter 7, termed as Recommendation, signed by Shah Nawaj Khan the Chairman and S.M.Maitra, the member of the Committee which runs as follows:

"The Committee has come to the conclusion that Netaji Subhas Chandra Bose met his death in an -:: (10A) bb-

air crash, and that the ashas now at Renkoji temple, Tokyo are his ashas, Rev. Moshijuki and the trustees of the Renjoki temple have already kept the ashas for a number of years. Their services deserve to be recognised. If the ashas are taken to be genuine Renkoji temple cannot obviously be their final resting place. Netaji Subhas Chandra Bose died ten years age. It is time that his ashas were brought to India with due honour and a memorial erected over them at a suitable place. This we recommend for the serious consideration of the Government of India It may be mentioned in htis connection that influential aides in Japan are considering putting up a memorial to Netaji in that country. If Netaji's mortal remians are honoured and his ideals kept alive, then one could truly ask flwhere is deaths sting where, grave the victory?"

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#### -:: (10B) ::-

genuine" is not based on forensic findings or any sorts of post - mortem analysis. It is partinent to mention here that when the two Prime Ministers of India visited the Renkohi Tample, in their comments on the visitors took none did make any remarks about Netaji. Neheru recorded on the visitor's book: "May the message of Buddha bring peace to mankind".

Indira Gandhi wrote in the Visitors book something not related with Netaji.

Commission, 1970 were: "Inquire into all the facts and circumstances relating to the disappearance of Netaji Subhas Chandra Bose in 1915 and the subsequent developments connected there with and make its report to the Central Government". Mr. G.D.Khosla, I.C.S., and ex-chief Justice of Punjab High Court in submitting his report varially travelled beyond the terms reference and brought so many unnecessary things even the alleged marriage of Netaji- Which most conclusively proves the perversity of the report submitted by Mr. G.D.Khosla.

Khosla wrote and published a book, namely the 'Last days of Netaji's which book conclusively said that Netaji died in the alleged plane crash in 1945. Such publication of the book is binding piece of evidence that Justice Khosla made up his mind before submitting the report and the book was published with the specific purpose.

There were a number of derogatory comments about Netaji in the said book for which Mr. Dwijen Chandra Bose,

Banksai Court, Calcutta. Justice Khosla tendered unconditional apology before the Learned Chief Metropisitan Metropolitan Magistrate and the book was ordered for withdrawn from circulation. Khosla also tenered unconditional applogy before the Previledge Committee of Parliament for writting and publishing the said book. Apart from alllother grounds, and the Reports of Khosla Commission turned to a non-est, expired to void abinition for the reasons stated above.

The then Prime Minister Mr. Morarji Desai on 3rd September, 1978 announced on the floor of Parliament that;

"Shah Nawaz Committee and Khosla Commission held the report of Netaji Bose's death as true. Since then reasonable doubts have been caused on the correctness feached in the two reports and various important contradiction in the testimony of the Witnesses have been noticed. Some further contemporary official documentary records have also become available. In the light of those doubts and contradictions and those records, Government find it difficult to accept that the earlier conclutions are decisive ".

On 11th April 1979 the Minister of State of the Union Ministry of Home, Mr. Dhaniklal Mondal made a cristal

clear statement in the Parliament with regard to the perported attempt of bringing of the alleged ashes of Netaji in India from Menkoji temple, that it was feasonably doubted about the inquiry reports submitted by the earlier two commissioners about the death of Netaji Subhas Chandra Bose and it was not possible for the Government of India to accept those reports as conclusive, and accordingly it was not possible for the Government of India to accept the proposal of Jufiara in such premises.

So, it is more than conclusive that findings and reports of Netaji Inquiry Committee, 1956 and Netaji Inquiry Commission, 1970 were/are noniest. The Government of India now can not confer any posthumous title upon Netaji replied upon the Reports, fingins and observation of the two Inquiry Commissions. The Reports of the said two Inquiry Commissions, which were virtually 'steel-born-babies', x in no way can help the Government of India in bestowing any title etc. upon Netaji POSTHUMOUSIX.

14. It is reasonably presumed that both the Netaji Inquiry Committee, 1956 and Netaji Inquiry Commission 1970, which were formed only to specify the public demand not to search out the Pruths sincerely. Both such Inquiry Commission declared that Netaji died on the alleged plane crash on 18th August, 1945.

The Government of India headed by Chandra Sekhar declared Investigative Inquiry that may be called the third Netaji Enquiry Commission, which will be held to investigate the sustained unsolved x mystery denove.

So it is concluded will that the Government of India had never accepted the Reports and findings of two earlier Inquiry Commissions. Government of India never acted upon the Reports of the said two commissions. Thus it is well concluded that both the said Netaji Inquiry Commissions 1956 and 1970 respectively became nullity, void ab-initio and absolutely non-est.

National Congress, Maulana Azad the then Congress President told the delegates "The circumstances in which the news of the death of Bose had reached us and the sources responsible for the announcement do not amke certain that Bose is infact dead. Therefore, his name should not appear in a list of those who died since the last Session of All India National Congress" (that is for at last 3 years).

No condolence resolution has yet been passed in any session of A.I.C.C. for thee death of Netaji. The Government of India formed by the Congress Party is headed by Mr. P.V.Narashima Rao, who is also the President of Indian National Cognress, for what reasons considered Netaji dead and conferred a title upon him posthumously

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is really ridiculous. If the Governments of India considering him dead, why not the Congress Party observed any condolence for Netaji who was twice elected as the President (Rashtrapati) of Indian National Congress. If will proved from the meetings of A.I.C.C.

14B. The most comspiceous thing is the "death news" upon which the entire would banked upon and the propaganda of death was published. The alleged plane crash reported to be happened on 19th August 1945 at about 2 p.m. (there are different contradictory views) was first announced by Domein News Agency (Private news agency of Japan)" on 23rd August 1945 about that incident. It stated that Netaji was seriously injured in an air crash at Taihoku on 19th August 1945 was treated in a hospital in Japan and died at midnight.

"T(Bose) while on the way to the eapital, as a result of an accident to this Aircraft at Taihoku at 1400 hrs. On the 18th August was seriously injured and died at midnight on the same date. His body has been flown to Tokyo by the Formosan Army.

I have thanked the Formosan Army, for their kindness.

The substances in both the news indicates a common element that Netaji's body was flown to Tokyo, so it could

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not stand to reason that his body was cremated at Formosan.

So the basic death news there was no evidence, not even a whisper that the body of Netaji was flown to Formosan from Japan.

No document was produced neither before the Netaji Inquiry Committee or the Netaji Inquiry Commission to know that at least one plane flew in the akies on Taihoku on 18th August 1945.

14C. So called Doctor's evidence was at such veriance from one another and only from their own statements given before Anglo-American Intelligence, Netaji Inquiry Committee and Netaji Inquiry Commission that none in his sence could believe their testimony.

Your petitioner crave leave to produce those documents at the time of hearing. He further crave leave to produce the evidences led before Netaji Inquiry Committee, 1956 and Netaji Inquiry Commission, 1970 and the Boak of Samar Guha, namely, "Netaji- Dead or Alive".

14D. Every body/Institution/Authority most successfully failed to establish the death of Netaji and surprisingly Government of India in trying to prove it by donfering a Title postnumously "There was no official record of Subhas Chandra Bose's death in my Archives" - Mountbatten replied

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on 10.3.78 to the letter of Mr. N.G.Gore, the then Indian High Commissioner at London.

14E. It is an established fact that the Congress Party had an "apathy & alergy" about Netaji, manifestation of that had been well establishedly spreaded out through out the dicades in different Government Orders, speaking and unspeaking.

It is quated from the file of "Ministry of Defence" which was marked as "confidential".

N. 158211.1

Subject : Photes

H.Q. Bombay Sub-Area

Colaba, Bombay-5

11th February, 1949.

It is directed that Photos of Netaji Subhas Chandra Bose be not displayed at prominent places in Unit Lines, Canteens, quarterguards or Recreation Rooms.

S N K-VL

Sd/- P.N.Khanduri Tel: 35081, Ext. 41 Major General Staff.

The INA personnels were most badly treated in post British India, no recognition was given to them none of them were reinstated in military proving the allegence to their "British Master". This was the treatment, what Government of India extended to Netajh. It is really surprising what promted Government of India to confer him the highest civilian Title after so many year.

15. Mr. Samar Guha published a book under the title
"Netaji Dead or Alive"? in March 1978. The book interally
contemplated about doubts of the death of Netaji and probabilities of His reminating alive. The book had taken into
account of all the views but was retionally most successful
in conclusively proving that Netaji still alive. The reports

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of the said two inquiry commissions were throughly scaned and all the contents of such reports were retionally analed altogether. The first adition of the book camexiaxaprii was exhausted within a month. Second edition of the book came in April 1978. The book created such a stir that latter a 32-Para UNI despatch on the book was given publicity by all the national and regional news papers all over the country. Such a book was released by the then President of India o Mr. N.S. Reddy on 7th March, 1978 in a ceremony held in the Parliament Annex. The function was presided by the Lok Sobha speaker, Justice K.S. Heged. The ceremony was widely reported in the national press. The book which claimed and vartually was able to knock down all the findings, observations and reports of Netaji Inquiry Committee 1956 and Netaji Inquiry Commission 1970, was released by the president concluded that the fingings and reports of the

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Netaji Inquiry Committee and Netaji Inquiry Commission

were not accepted by the Government of India, neither in

official capacity nor in informal manner, nor ever by the

country man as a shole. In such situation the Government

of India cannot claim that they have gue the title to Netaji

posthumously depending upon and relying on finding and

reports of Netaji Inquiry Committee 1956 and/or Netaji Inquiry

Commission, 1970.

gation before the Rajasthan High Court being S.B.Civil
Writ petition No. 902 of 1984 alleging interalia that
the reports and findigns of two Netaji Inquiry Commissions
could not discover the Truth relating to Him, His mysterious disappearance and causes of non-returning to mother
land, and prayed for a High Level Investigative Inquiry. He
replied upon 63 sets of documents, including the reports,
findings evidence and witnesses of Netaji Inquiry Committee,
1956 and Netaji Inquiry Commission, 1970.

The Union of India appeared but did not countested of affidavits, though exhaustive opportunity

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was given by the Court. His Lordship, the Hon ble Mr. Kapoor
Justice delivered the Judgement of 18th January 1986 derecting the
Union of India to hold a High Level Investigative Inquiry
Commission with regard to Netaji within six months from date
of order taking inot due consideration of all the said 63 sets
of documents, and other sets of documents which may be
available in other parts of the world relating to the subject
and to submit a report thereof. Conspiquously the said petition
died in a street accident. In view of the abovesaid Judgement
it is however established that no POSTHUMOUS Title can be
coferred upon Netaji holying upon the Reports of Netaji
Inquiry Committee, 1956 and/or Netaji Inquiry Commission, 1970.

I crave leave to produce certified copy of the said Judgement at the time of hearing.

17. Had this title been given in recognition to his service to Nation why it was not given to Mahatma Gandhi? Was the contribution of Gandhiji was less than that of Netaji? Or, if Netaji is 'Bharat Ratna' then why not Gandhiji? If Gandhiji is above the title why Netaji would be subjected to such title. Is it a declaration by State without saying that Netaji's contribution was less in comparison to others? Apart from the emotional assessment of the Indian, I rely upon the statement of a Britisher, a Prime Minister of Britian, under whose supervision the power so transfered

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from Her Magistry to 'We the People' in 1947. Clement Attled was interviewed by Mr. P.B.Chakraborty, the then Chief Justice of High Court at Calcutta, who was then the acting Governing of West Bengal. Mr. Attle confessed that it was the Indian National Army (INA) which influenced defence of the British India and there was massige arosion of loyality of Indian defence personnels to the Crown. To avoid another Indian Nutiny as caused in 1857, British left India with honour and dignity. It was also broadcasted in All India R dio at that time and Mr. R.C. Majumder, the eminent historian, also reproduced the statement in his book "History of Freedom Movement in India".

by quoting the statements and references made by different persons in the country and absord about Netaji. I am only relying on quotation, address and title given by the person who was himself an institution. When this subcontinent was under the yoke of Britsh imperialism, the nationalists much depended upon and relyed to the opinions and statements made by the representative Thinker, namely Rabindranath Tagore. It is Tagore who addressed Mohan Das Karamchand Gandhi as 'Mahatma' some-time in 1921 and the Nation expected that title. When Subhas Chandra Bose resigned from the post of the post of President, Indian National Cognress in 1939, for some internal conspiracy of Congress High Command,

Tagore addressed Subhas Chandra Bose as 'DESHANAYAK' that
means the leader of the Nation. When Mahajati Sadan was
inaggurated after that incident, Rabindranath Tagore
conferred Netaji the title 'YUBAHAJ' i.e. the 'Prince of
Mother India' and it goes without saying that the whole

Nationa expected him as Tagore described.

19. That instead of placing series of authenticated documents, only one document, which is one of the most cardinal documents I am referring here I crave leave to produce other documents and papers at the time of hearing on these aspects.

This letter dated 22.7.46 of Khurshed Naocroji to Louis Fisher evidentially says beyond all doubts that Netaji was not died in alleged air crash dated 18th August, 1945, and he was very much harbouring at the then societ Bussia, planning for a strategic invesion to India with the help of Russia.

Which were very much manifested inbetween the lines of the letter that it was 'letter of desparate request' to the Allied Forces to decide and do that 'factor', to put an decisive and to Subhas Chandra Bose to ensure European allience to post-independent India, not a pro-Russian Indian sub-continent.

A true and correct copy of the letter is annexed and marked with the letter AR-II.

AR-II

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Before going in details in this aspect, I beg to 20. sketch the background of freedom struggle of India in a few lines. This subcontinent was under the Colonialism followed by Imperialism for about a milienium. Approximately 700 years under the Arab Imperialism and the following about 300 years under the Eupopean imerialism in which Britishers had a pre-dominence to rule. During the dawn of European Colonialism, the political power was first enjoyed by the East India Company on behalf of the Britishers. One Year after the Indian Mutiny 1857, the power was transferred from the East India Company to Her Majesty by virtue of an act, namely Government of India Act 1858. And one year after another Indian Mutiny, 1946, (caused by I.N.A.), the power was transferred from Her Majestry to 'We the People' by virtue of an Act, namely, Indian Independence A t, 1947. The United Kingdom was very successful in established the fact before the world that Her Majestry gifted politicalfreedom to the people of India, and that too by virtue of an Act passed in British parliament. Virtually it was "the continuation" - a continuation of the authority, a continuation in every aspect, just the political, power was transferred. The struggle for freedom from the yoke of British Imperialism was vertually lodged in two schooling. One is, doctrine of active initiation, named as revolution and other is, dectrine of passive resistence, named as

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non-comperation on but subsequently named as non-violance The members of the first camp were Rashbihari Bose. Khudiram, Chandrasekhar Azar, Tilak, Savarkar, Bhagat Singh Subhas Chandra Bose and many others, and the members of the other camp was lead by Mohandas Karamchand Gandhi, who all along pleaded for domination Status instead of absolute Independence. Virtually this Gandhian approach of non-violence used to give every political milage administrative dividend to the Ruler to subject this sub-continent under the British Imperialism. Since 1930s, the said two camps were led by Netaki and Gandhiji respectively. These said two camps culminated differences all most in every aspect, both in theory and practier. The conflict which manifested since 1928 or earlier, became totally sufface in 1938 when Subhas Chandra Bose was first elected as All India Congress President. The two top leaders locked their horns, which culminated, in compelling Subhas Chandra Bose resigning from the post of All India Congress President, soon after he was re-elected in 1939. After the end of 2nd World War, India achieved political freedom following foot-steps of Gandhi at the ww price of partition of land, lives of crores of people and huge drainage of property. Just Power was transferrred, but it was a "Continuity" in every sense. volumes of documents were prepared for transferring power from Crown to "We the People" which was agreed by and between two parties i.e. Britishers and Congress and this agreement is named as 'Transfer-of-Power 1942-47'. It was agreed that all the documents related to

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commencement of Constitution i.e. 2000 A.D. The most obnoxiously surprising and peculiar thing on earth is that a country achieved political freedom by virtue of an agreement which was made and kept absolutely unknown to the people of the land. Thus the Congress led freedom birth struggle gave kith to two Dominian Status, namely India and Pakistan only political freedom was given, not anything else. The land was partitioned first as per demand of Jhina, thereafter Dominion status was given to two halves.

A xerox copy of the Statesman dated 15.8.47 is

AR-III annexed and marked with the letter AR-III.

21. The five fateful years leading to the transfer of Power, begining with the Cripps Mission in March 1942 and ending with the Transfer of Power to India and Pakistan on 15th August, 1947, were the most Critical in Indo-British relations and the entire Documents are not expected/scheduled to be published till 1999. Though between 1970 and 1983, twelve volumes of the Transfer-of-Power 1942 - 7 were published, under the editorship of a distinguished historian, Prof. Mansergh and the publication claims to be dispassionately independent and exemplary impartiality, but it may be said of the Transfer of Power that this remarkable series of official documents published in 12 volumes tell their own tale. The anme of

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Subhas Chandra Bose occured in Volume VI and VII of the
Transfer of Power with a humber of noted Missing records,
discontinued information and lost documents. I some
places, reference of records/documents have been given
but not the records/documents themselves- which conclusively
mut not the says that Subhas Chandra Bose and His I.M.A. were not
most important premises in those Agreements, namely Transfer of
power. It is partinent here to mention that in the records
of British Archives and Sedition Reports the name of Subhas
Chandra Bose was categorished as ANARCHIST and those of
Neheru, other followers of Gandhiji, were catagorised as
reconciler/Moderator.

clauses in 'transfer of Power' which relates to Subhas Chandra Bose, with regard to the post-wwworld-War-treatment as a 'War Criminal' as contemplated by Allied Forces. The InN.A. was declared War against Britain for the liberation of India. I.N.A. was headed by Subhas Chandra Bose. After the World War Britain tried I.N.A. Personnels as War Criminal held them guilty, but subsequently they were personed by the Crown. Perhaps Netaji is an War Criminal. It is very pertinent to mention here that Britian/America or alled Force tried different War Criminals but none of the Countries did ever publish any list of War Criminals at

point of time. This question - 'whether Netaji was a War Criminal or not'- was severally asked in different perspective, but Government of India could not give any satisfactory answer. It is reasonably doubted that Neheru conceded to that point, as may be stipulated in ('transfer of power', that Subhas Chandra Bose would be handed over to the Allied Force in case of his return to India. For this reason, in 1945 Neheru made a Press Statement in Simla "It would be wrong to adopt any vindictive attitude towards him (Subhas Chandra Bose). It was, however, different matter as to under what condition he would be allowed to return to India".

Perhaps this prevented Netaji from getting back in His mother land.

In reply to the question of Mr.Thevar, dated 4th April 1956, Shah Nawaz Khan (Metaji Inquiry Committee, 1956) replied "The Government of India is not in a position of any information on this point whether Netaji is a War Criminal or not. This information lies with the United Kingdom and the United State of America". The Chairman of both Inquiry Committee and Inquiry Commission hopelessly answered to this question whether the Government of India can state categorically that the declaration of Allied Forces with regard to the War Criminal does not bound Government of India or not, and whether Netaji be handed over to the Allied Force for trying as War Criminal or not.

23. Perhaps the Indian Parliament is not yet a sovereign Parliament. India is not totally and absolutely Independent, just a republic, subject to the Crown of United Kingdom. India achieved her political-freedom in 1947 and became republic on 26th January 1950. Mounbatten's plan for Partition was accepted after failure of Cabinet Mission's Plan. The British Parliament Swiftly implemented the decision to partition India. A bill (which became the decision to partition India. A bill (which became the decision on 4th July 1947 and was passed on 215th July. The next day, it was passed by the House of Lords. There was no amendments. It received the Royal Assent on 18th July. That Act created the two independent Dominion of India and Pakistan.

To the Crown, India remains dominion cutside Britain.

In 1956 it was reported in 'Amrita Bazar Patrika' that a

Magistrate in London in his Judgement said that 'India is

not a sovereign republic - a part of Her X Majesty's domination

outside the United Kingdon". This was also written in a

printed form which was prepared as per Matrimonial

Proceding Act 1960, of the United Kingdom. This was brought

in the notice of Government of India by one Kashi Kanta Moitra,

the then Member of Assembly of West Bengal, who was also a

senior Advocate of this Learned Court, but no action was taken by Government of India against such order. It is said that Netaji has to wait till 2000 A.D. when India will achieve Her Sovereighnty, absolutely, and cease Her membership from Commonwealth, the transfited form of British Imperialims. The Crown is the 'symbolic' head of the Commonwealth and we every member of Commonwealth is subject to the Crown.

Copy of the Newspaper is annexed and amarked with letter AR-IV.

24. Till 1971, the President of India and the Governors were not allowed to use the Indian National Flag on their residences and Cars. They used or had to use their personal flags, it was reported by the Press Trust of India on 30th July, 1971. Surprisingly enough, the Act XXVI of 1971, namely Prevention to National Flag and National Authen Act came in 1971.

A xerox copy of the Newspaper reporting the News, is annexed hereto and marked with the letter AR-V.

25. The Constitution is the supreme law in the land and Article 19th which occurs in Part III, Fundamental Rights,

contemplate different Freedoms and obviously which includes freedom of information. Article 21 ensures rights to know since right to life became noniest if there is no knowledge. Ensuring unedited knowledge and uninterrepted access to proper information are elements of Article 21. The Hon'ble Supreme Court has held that right to inhaul fresh air in concomitent to right to life. So most elementarily. Right to know is concomitant to fundamental right, as ensured under Part III of the Constitution. The directive principle which are fundamental in the government of the country can not be isolated from the fundamental rights guarnted under Part-III. This principle have to be read into the fundamental rights, both are supplementary to each other.

The right to know compendium explanation of all those rights which goes most undorce because they are basic to dignify enjoyment of life. Life means not mere existence but the quality of life. It extends to full arrange of conduct which the individual is free to persue. The right to know flows directly from right to life. The right to life under the Article 21 and the dignity of the individual can not be assured unless it is accompanied by the right to know.

The citizen of India have ever wight to know that were written in the Documents of Transfer of Power, 1942-47 and that are there in the National Archives of India. Even

further to that what are there in State Archieves of different countries of the World about Netaji and Indian citizen(s) who are lost or made to be lost. The Government of India did not take any endeavour to search out the truth about Netaji, there was no honest and sincere attempt on the part of the Government of India to solve the mistry about Netaji which was in total disregard to the fundamental rights of citizens of India, rather on the contrary it may be concluded that there was a cold delibaration on suppress the truth and information from the people of the land about Netaji which is violative to Articles 19 and 21.

The public mind, which has been reflected in different seminars, resolutions, letters to authorities and press publication, have reasonably considered that Government of India has resorted a perverse way of honouring, by conferring Netaji the alleged title, 'Bharat E Ratna'. Moreover since the doctrine of priviledge and doctrine of pleasure are originating factions in bestowing such a title to a person, naturally it has become an expercise of arbitrariness. Least, not the last, it could be said as so much controversies have been arosed about this alleged title 'Bharat Ratna' that conferring such title to Netaji sufferes from vide of malafies. The Government of India should immediately withdraw this alleged title by an valent order, conferred upon Netaji on Tannuary, 1992.

27. The act, on the part of the Government of India, in conferring the alleged title 'Bharat Ratna' to Netaji Subhas Chandra Bose posthumously is unconstitutional on the following grounds, which are not contadictory to each other, amongst other;

### G\_R\_O\_U\_N\_D\_S

- I. For that conferring any title by the State to anybody is unconstitutional, ultravires to article 18(1) of the Constitution of India.
- II. For that the article 18(1) stands in the x way of conferring the alleged title 'Bharat Ratna' to Netaji Subhas Chandra Bose or any title to anybody, excepting academic distingtion and military galantry.
- III. The approach and conduct on the part of the Government of India bout Netaji is in total disregard to Articles 19 and 21.
- IV. The government of India has never accepted the report and findings of Netaji Inquiry Committee 1956 and Netaji Inquiry Commission 1970, title cannot be posthumously, conferred where the State has never declared him dead and/or considered him dead and as such 3rd Enquiry Commission was ordered by the Prime Minister in 1985, which is pending disposal.

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-:: (28) ::-

- V. For that in the camouflage of posthumous title, the Government of India wants to put an end on the unslove mystery of Netaji's disappearace instead of sincere attempt for fishing out the truth about him.
- The Government of India, mainly headed by Gandhi -28. Neheru family had been all along very much indifferent about Netaji. This indifference was very calculative and deliberative. Many people wrote different books on "etaji giving all wrong informations now sense reasoning, misleading informations about his disappearance and death but no step has yet been taken from the Government of India. Even a man, known as 'Saint of Solmary' was marryfully allowed to be established as Netaji in public mind who just disappeared after the death of Neheru. Different rumours, colourful stories, disputed facts and misleading information were staring allowed to propogate with a sense of perpituation about Netaji, disregarding a personality like him and conspicious scilence on the part of Government of India is concerned.
- 29. It is most himble submitted that the Union of India should be directed to withdrawn the alleged title namely Bharat Ratna conferred upon Netaji and to cancell the order and/or declaration bestowing Him a title posthumously for restoration of His honour. It is further submitted that His

### -:: (29) ::-

contribution of his mother land must not be turnished with an unconstitutional disposal.

That the statements made in paragraphs No. 11 to 8,16, 20 to 23 are derived from different reports, books, magazines, me newspapers parliament proceedings; those made in paragraphs No. 1 to 4, 17, 18, 19, 24, 25, 26, 28 are true to my knowledge and the rest are my himble submission before this Hon'ble Court.

Prepared in my office. The depondent is known to me.

Advocate

Clerk to Mr. Advocate.

Schemnly affirmed before me this the End day of July 1993.

commissioner.

# Annexure B

Copy of a letters from Khurshed Naoroji to Louis Fischer 22/7/46

Dear Fischer -

I enclose a copy of Gandhiji's letter, as desired by you. But please don't think that he is not with us. I have been with him since my release from prison and he put the congrutuctive Programme before the country which was overlooked by the working Committee when they decided on constitutional methods.

Since the release of his colleagues of the Working Committee he has gone with them because they were not prepared to go with him but Gandhiji is essentially a man of action and when the time comes, he will take the country with him.

The Socialists are merely implimenting the constructive programme in the light of present circumstances, We must go to the people and forge mass sanctions. The people want to know the shape of things to come. Grouping of the provinces or the question of sovereignty does not touch them, they want a plan. Let our leaders go to the Govt. sponsored Constituent Assembly and we remain with the people to share their joys and sorrows. When the time comes we shall be one.

The Socialists do not want violence any more than does Gandhiji but what is practiced non-violence, we say nonkilling. We have to put non-violence in to practice and not just go talking of truth of non-violence. People want deals and not words. For twenty years we have talked on the ideal Govt. and the practical stage for us today is Panchayat Raj. Our people are very patient but even their patience is wearing thin. All Congress and the nationist minded people are one but our headache is the Indo-Anglo-Russians. The foreign Govt. has built them up to fight the Congress and will have to deal with them now. They are going underground and if before the time the Allies (excluding Russia), have a scrap with Soviet Russia, India is not satisfied

B

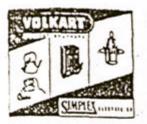
-2-

with the results of the Constituent Assembly. She will go over entirely and absolutely to the enemies of the Allies. The Indian army (not the Indian National Army) is no longer of the same temper as it was in the first world war. Besides the disaffection amongst the Indian officers and the rank and file, a revolutionary group has been working amongst them and they are pro-Russian. There have been many cases a court martial in the Indian army on individuals and platoons during the last war both in India and abroad. There have been mass desertions in the regular army and minor reaps in the N.W.F. Province at the beginning of the last war.

At heart the Indian army is sympathetic with the Indian National Army. If Bose comes with the help of Russia neither Gandhiji nor the Congress will be able to reason with the country. Also Russia for propaganda purposes declares itself an Asiatic country then there is no hope of any European alliance acceptable to India. Freedom for India under the aegis of Soviet Russia is no freedom for us: but it now rests with England to play fair by the people of India or be declared by us for ever as the enemy of India and of the Asiatics. There are other groups in north India pro-Russian, but after Russia joined the Allies they lost caster. However the bitterness towards the English is so great that Russia will again come into favour on the event of any disagreement amongst the Allies.

Gandhiji is not touched with the international reactions but we can't afford to neglect the signs of the time specially when it concerns our freedom.

Yours, Khurshed



# The Statesman

QUALITY

There is TRUTH in our Quality

The state of the

Vol. CXIII. No. 23112

REG. No. C193

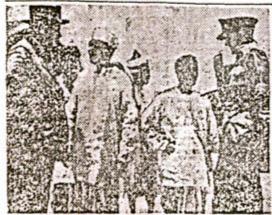
CALCUTTA, FRIDAY, AUGUST 15, 1947.

PUBLISHED SIMULTANEOUSLY FROM CALCUTTA AND DELHI.

TWO ANNAS.

# TWO DOMINIONS ARE BORN

Political Freedom For One-Fifth Of Human Race



H.f. hir Fredgrick Burrows talking to Mr. S. C. Roy Chowdhury, Mayor of Carouta, at Down Usus white waiting for the arrival of Mr. C. Rajespalatheri. Or F. C. Ghosh is chatting to Mal-was Ranking, Stateman,

## Close Friendship with Britain

Nehru's Reply to Mr. Attlee

NEW DELHI. Aug 15 - My colleagues in the U.K. Govern-

# POWER ASSUMED BY INDIANS

Constituent Assembly Members Take The Oath

### WORK FOR COMMON PROSPERITY

From Our Special Representative

NEW DELHI, Aug 15.—Two new Dominions, India and Pakistan, were born at zero hour today, ushering in political freedom to 400 million people, constituting one-fifth of the human race.

T a special session of the Indian Constituent Assembly, the House assumed full powers for the administration of the Indian Dominion.

### NO DISTURBANCE IN CALCUTTA

No incidents of a communal nature occurred in Calcutta and Howrah yesterday. The Constituest Assembly jonight bassed Pandit Nehru's resolution prescribing the Oath Aul the memters took the Oath and then Dr Raisendra Prasad and Pandit Nehru lett for Government House to request

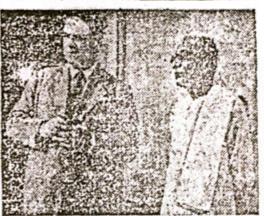
|See Editorial Comment-Page 6.

Lord Mountbatten to accept the polof Governor-General Pandit Nantru's resolution. Whi was seconded by Cheudhurs Khal-

#### AUGUST 15. 1947.

A special independence thay supplement to published with this later of The Stateman. As exclusive article, by a special correspondent on the negatiations which led to India a freedom ay pears an Page 6.





hir Frederick Barrows, retiring Governor of Bragal, and Mr Canagopala, chart, Governor of West Bragal, photographed at Government House

# First Governor of W. Bengal

C. R. Sworn In This

T. T. T. S. L. Brack by a Staff Reporte

WITH the birth of the Indian Dominion this Excellency Mr C.

"Rajagopalachari assumed charge of the boice of Governor
of West Bengal at one oclock (BT) this morning. Immediately
afterwards Dr P C. Ghesh, Chief Minuser, West Bengal, and the
members of his Cabinet were sworn in.

Joytul Scenes In

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ompanies from :

### ASSOCIATION

ne : 34-7635

AMRITA BAZAR 15 AUGUS T, 1965





Anchor. any and available.

DE BISWAS on ate Ltd. at the Lane Calcutta-3

# 'Indianot Sovereign Republic'-UK court

BY A STAFF REPORTER

India is not a Sovereign Republic but "a part of Her Majesty's Dominions outside the United King-I dom".

1920, "extends" to this country.

London citizen against her husband, an Indian citizen, now a

The Judgement was delivered

In a recent order passed by a (Facilities for Enforcement) Act, Court of Mugistracy in London in connexion with a case under Matrimonial Proceeding Act, 1940. India has been held as a "Domi-

This is not a mere passing remark of the Megistrate as such but it represents the opinion of the British Government, in as much as these words describing India as "a part of Her Majesty's Dominions outside the United Kingdom" have been printed on the form issued after 1960 prescribed by the British Government.

Mr. Kashikanta Moitra, M.L.A. (S.S.P.) who handed over a copy of the London Mugistrate's order to 'Patrika' on the eve of India's 19th Independence Day celebra-tion, asked, "what roully then is Constitutional Status of India today, a Sovereign Republic or a part of Her Majesty's Dominions."

#### LEGAL POSITION

Explaining the legal position Mr. Moitra said the Indian Independence Act, 1947, provided for setting up in India of two inde-pendent "Dominions", on and from August 15, 1947, India came to be known as a "Dominion."

The question arose as to real constitutional status of India within the "Commonwealth" set up. Continuing Mr. Moitra said that on January 26, Indian Constitution came into force and India was proclaimed to be a Sovereign Republic.

"In constitutional law and in political legal theory there is a good deal of distinction between a Dominion : and a Sovereign Republic", held Mr. Moitra.

The London Magistrate, not only holds India as a British Dominion but, also says that the "last-...ientioned Statute" which is "the Man:tenance Orders

urcaminiowi cover-girl complexion

Pond's Dreamflower F. smoothes on so evenly ... tiny blemishes ... and just de Several exciting shades to to fiatter your complexion

> CHESEBROUGH-PONI (Incorporated in the I with Limited Liabil

resident of Calcutta.

Answer A

# THE BRITISHRAJ

LEONARD MOSLEY

37



JAICO PUBLISHING HOUSE
125 Mahatma Gaedhi Road
BOMBAY I

#### **AUTHOR'S PREFACE**

IN HIS RECENTLY published book, The British in India, the distinguished Indian scholar, R. P. Masani, writes:

'The histories of [the] last phase of British rule in India which have been published leave several questions unanswered. What efforts were made by Lord Wavell, one of the most conscientious and liberal-minded viceroys of India, to bring together the two warring political parties? What were the circumstances which impelled Attlee as Prime Minister of Britain to change horses midstream and send out Lord Mountbatten to expedite the withdrawal? What endeavours were made to evolve a friendly policy between the Dominions of India and Pakistan? Why did they prove abortive? Why were adequate precautions not taken to avoid the holocaust? The reasons remain to be told dispassionately.'

This book is an attempt to give the reasons, without

passion and without partiality.

It is the fruit of three years' research in India, Pakistan and Britain, during which a wealth of material which has not previously been available to the historian was put at my disposal. I have endeavoured, to the best of my ability, to make use of it with no other idea in mind than to fill the gaps in a moving and fantastic story which has, until now, been full of gaping holes. Official documents dealing with the transfer of power in India will not be officially released until 1999, but in the interim period between that date and the present moment, I hope this book will shed some light upon events which have hitherto been obscured.

In addition to the privilege of studying original documents and letters, I have also been fortunate enough to be able to talk to most of those who played a prominent part in the relinquishing of British power in India 23d

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Annexure F

রাষ্ট্রপতি রাজ্যপাল্রা ব্যক্তিগত পতাকা শিল আর প্রতাবেন না নাম্পাল এবং লেফটনানট গভরনরবের সরকাগী রাসভবন ও গাড়িগালিতে এতাদন বি বারিগত পতাকা দেখা বেত ১৯ব১ সালের ১৫ আগসট থেকে তার পরিরতে দেখা মারে জাতীয় পতাকা আজ রা জ্যান ভা বি শ্রীথিয়াই উল্লোভির একটি প্রদেনর উভরে এ কথা জনান সহকারী স্বরাইমন্ট্রী এফ প্রেচ মহসীন। —পি টি আই দ পি এম সরকার এমন ত্ববিংগতি 
নালফিতের বাধনে আটক শতসহস্র

া-নির্দেশ ফাইলবন্দি হয়ে বছরের

াছর পড়ে থাকে মহাকরণ এবং
করণে। একেন্সে তার ব্যতিক্রম
কেন টেত্তর একটাই— প্রতিহিংসা,

প্রতিহিংসার অদ্যা আক্ষাপন্।
ক্রে এক ক্রম অধ্যাক্ষকে হয়ে করে,

ামান ধুলোয় স্টিয়ে সীমিত ক্রমতার

য় মন্ত্রী মহোদয় গর্ব অনুভব করতে

। কিন্তু তাতে তার সম্মান বাড়ে না।

াকাশকে কর্প করে না, ফিরে আসে

য় মুবেই।

Peli

বলিয়া শ্রম করার ফলে এই অবস্থায়
রিপুর গোলাম হইয়া পড়ে। কাম,
. হিংসা, দম্ভ এবং সর্বেপিরি হীন
রতা প্রভৃতি বন্য প্রবৃত্তির তাড়নায়
ত সেই মানুষের মধ্যে দেখা যায়
স্বরূপের এক বিকট বিকৃতি। তাহার
মন দিব্য আন্মাকে যেন মেঘের মত
। থাকে। সে যাহাকে 'আমি' বলিয়া
করে তাহা তাহার যথার্থ স্বরূপের
স্কুল, সংকীর্ণ, জঘন্য, বিকৃত
। হুমানা

নুষের এই শ্লাভিডাসিক কাচা আমি 
ক বাসনার জালে বন্ধ করিয়া 
দমান্তরের মধ্য দিয়া অবহিত করে, 
ড আধ্যাঝিক সাধনার ফলে অবশ্য 
লে এই 'কাচা আমি' লোপ পায়, 
মানুষ ইন্দ্রিয় ও বিষয়ের মুঠা হইতে 
মুক্ত হইয়া হৃদয়স্থ চিরশান্তির রাজ্যে

ঠত হয়। ॥ঘাতের পরে আঘাত' হানিয়া ার দুর্গ এই 'কাচা আমি' কে নিশ্চিহ্ন দেওয়াই আধ্যান্মিক সাধনার কান্ধ।

নিত্য-নৃতন কামনার দাবিগুলি প্রত্যাখ্যান করাই এই আঘাত। তাই অধ্যাশ্ব র অবিচ্ছেদ্য অঙ্গ বাসনা-ত্যাগ। াই আধ্যান্মিক জীবনের প্রতিষ্ঠান। ার পথেই অমৃতত্ব লাভ হয়, <u>দেবতা প্রকট হন। আর ঘিতীয় পদ্বা</u> বাসনার সার্বিক ত্যাগই কামা, কারণ আনুকুলোই মানুষ ঈশ্বরের সঙ্গে র একায়তা উপপন্ধি করিতে পারে। । সে অনুভূতি একদিনে হয় না, বা ার কাম্ভূ এক সময়েও আসে না। াঁতা গাভ করার জন্য অবশাই চাই রে আতান্তিক নিবৃত্তি। অন্তঃ প্রকৃতি ইঃ প্রকৃতিকে নিঃশেষে জয় করিতে লই দিব্য আত্মার পরিপূর্ণ বিকাশ

এইরূপ প্রকৃতি জয়ের

া—রাজযোগ, জানযোগ, ভক্তিযোগ,

াগ এই চারটির যেকোন এক বা

ধিক যোগ অবলম্বনে একনিষ্ঠ

। বাস্তবিক ধর্মের সবটাই ইহার

। মন্দির, প্রতিমা, ক্রিয়াকলাপ,

কথা, পারমার্থিক তথ্য প্রভৃতির মধা

হিন্দুধর্মের এই দিকেই অব্যতীত

া সংকেত।

निर्द्यमानस्मत्र त्रहना ध्यात्क

না। তথু, পরপর কিছু ঘটনার বিবরণ দিয়ে যাব। কোনও রকম মন্তব্য ছাড়াই। \ তাদের ধারণা হয়েছে, রাজ্য সরকারের বিরুদ্ধে স্বস্থরকে ধন্যবাদ। কুৎসার অবাবে আমাকে এই কুৎসার অভিযানকে তুসে তোলার এটাই । শেব পর্যন্ত কোনও কুৎসা করতে হয়নি।

জনমত

# সম্রাট চেনাতে মুকুটের দরকার হয় না

'নেতাজির খেতাব লাভ' শীর্যক সম্পাদকীয় নিবছটি (২৪-১-৯২) যেন একটা চাবুক। এই সময়োচিত বলিষ্ঠ ও নিউকি সম্পাদকীয়টি উপহার দেবার জন্য সম্পাদকীয় দপ্তরকে আমার অকৃপণ ও অকুষ্ঠ ধন্যবাদ। ভারত বীরপ্রসূ। যে সমন্ত সর্বত্যাগী স্বদেশগতগ্রাণ সুসন্তানের জন্ম দিয়ে ভারতমাতা রত্নগর্ভ হয়েছেন, নেতাজি তাদের মধ্যে অন্যতম অত্যাহ্ছ অপরিমেয় এক ব্যক্তিত্ব-বরং বিরঙ্গ ব্যক্তিত্ব বললেও বাড়াবাড়ি হবে না। সে হিসেবে নেতাজি তথুমাত্র ভারতরত্বই নয়, তিনি ভারতসূর্যও। তাকে নতুন করে ভারতরত্ব সম্মাননায় বিভূষিতকরণ অসন্মাননা ও অবমাননারই সামিল। সম্রাট সম্রাটই-তার মুকুটের প্রয়োজন হয় না। দরকার হয় না খেতাবের। স্বামীন্দী, গান্ধীঞ্জি, দেশবন্ধু, রবীশ্রনাথ প্রমুখ বিশিষ্ট বিশ্ববরেণ্য বাক্তির মতই নেতাজিও স্বমহিমায় মহিমান্বিত ও ভাশর ; উচ্ছল ও উদ্রাসিত। এ সব ব্যক্তিত্বকে বাড়তি কেতাদুরস্ত পোশাকী তথা প্রতীকী খেতাবের ডোরে বন্ধ করে খটি না করাই কারণ -জনমনোমন্দিরে।

আনন্দ্রশ্সাদ রায় দেবদাস পরী, মধ্যমগ্রাম

বাহবা দিতে হয় বর্তমান সরকারকে। এইজন্য যে, তারা দেশের ৮০ কোটি জনসাধারণকে বিভ্রান্ত করার জন্য বিশ্বের মহান নেতা নেতাজিকে 'মরণোত্তর ভারতরত্ন' আখ্যায় ভৃষিত করার কথা ঘোষণা করে চূড়ান্ত ঔদ্ধত্য প্রকাশ করার সাহস করেছে। যে অওহরলাল নেহর নেতাঞ্জি বিরোধি হয়েও স্বয়ং নেতাজিকে মরণোত্তর কোনও উপাথিতে ভৃষিত করার সাহস দেখাতে পারেননি, শাহনওয়াস ও খোসলা কমিশন করে নেতাঞ্জিকে মৃত প্রচার করতে গিয়েও বলতে বাধ্য হয়েছিলেন যে, 'আমার কাছে নেতাজির মৃত্যু সম্পর্কিত প্রত্যক্ষ প্রমাণ কিছু নেই', সেখানে এই সরকার নেতাজিকে মৃত প্রতিপদ করার উদ্দেশ্যে এই উপাধি দিয়ে দেশের ৮০ কোটি মানুষকে বোকা বানানোর অপচেষ্টা করেছে।

ভাবতেও অবাক লাগে, নেতাজিকে কুইসলিং বলেছে, জুতোর মালা পরিয়েছে, কুশপুর্তালকা দাহ করেছে তারাই আঞ্চ বর্ণচোরা নেডাঞ্জি গ্রেমিক সেজে নেঙ,ন্ধিকে 'মরণোত্তর ভারতরত্নে' ভৃষিত করার আনন্দে আশ্বতৃত্তি লাভ করছে। এই সব বর্ণচোরা নেতালি গ্রেমিকরা ভানে না যে ৩৭ চারতবাসী নয়, বিশ্বের নিপীড়িত, বঞ্চিত মানবন্ধাতি নিৰ্যাতিত. নেতাজিকে তাদের মহান নেতা ও বিশ্বের রয় বলে বহু পূর্বেই স্বীকার করে নিয়েছেন। আজ বর্ণচোরা নেতাজি প্রেমিকরা যতই নেতাজির প্রতি ভক্তি দেখাক না কেন সত্যিকারের নেতাঞ্জি প্রেমিক ভাবতবাসী এই ভণ্ডামি, ভাওতাবাজি ও নেতাঞ্জি বিরোধিতার খেলা অতি সহজেই অনুমান করতে পারেন। এবং একথাও ধুব সত্য একদিন দেশবাসীর কাছে নেতাঞ্জি বিরোধিতার কৈফিৎ এইসব নেতাদের অবশাই দিতে হবে। সেদিন হয়তো আর বেশি দুরে নয়। তরুণ কুমার টৌগুরি পাহাড়চলী, কালোপাহাড়

এতদিনে ভারত সরকারের চৈতন্যোদর হলো রত্নপ্রসাদনী ভারতমাতার গর্ভচ্যুত সুভাষচন্দ্র বসু



বাঙালি সন্তানকে ভারতরত্ম উপাধিতে ভূষিত করা যায়। আমাদের বাঙালি জাতির আবহমান কাল ইতিহাসের স্বগ্নপুরুষ নেতাঞ্জিকে ভারতরত্ম পেতে লাইন দিয়ে দাড়িয়ে থাকতে হয় ছাবিবশ জনার পিছনে। ভারত সরকারের রোগকলের কি মহিমামতিত নতুনা। কেউ কি কোনওদিন শুনেছেন ক্লাসের ফার্সবৈয় শেখের বেঞ্চের কোন থেকেও সাড়া দিয়ে ওঠে 'উপস্থিত'। দেশ স্বাধীন হবার পর ৪৫ বছর হতে োলো এবার আমাদের নেতান্তির ডাক পড়েছে তিনি ভারতরত্ব উপাধিতে ভৃষিত হবার যোগা। ৪৫ বছরের অগ্নিপরীক্ষা। যে দেশের গোক হেসে খেলে খেয়ে পড়ে বেঁচে থাকতে পারতো। যে দেশের লোকদের গোলাভরা ধান, কেন্ড ভরা ফসল, পুকুর ভরা মাছ আর অঙ্গভরা বঞ্জ ছিল। কিন্তু ছিল না ব্রিটিশ সরকারের হাত থেকে বন্ধন মৃক্তির অঙ্গীকার। যে দেশের অন্য একদা নেতাজিকে মাতৃভূমি ত্যাগ করতে হয়েছিল, সৃষ্টি করতে হয়েছিল আজাজ হিন্দ বাহিনীর মতো স্বপ্নে বিভার অকুতোভয় সেনাবাহিনীকে তাঁদের তথথাকথিত 'ভারতরত্ন' পাওয়ার সময় হয় না অথচ স্বাধীনোত্তর সময়ে যে দেশ নেতাদের আমলে সূজলা, সুফলা দেশের অবস্থা আরও শ্রীহীন, ঘরেঘরে অভুক্ত ক্ষালসার মানুবেরা যখন প্রাণহীন কাক তাড়্যার নামান্তর, মুদ্রান্দীতির ক্রপ্ররোবে, জনসাধারণের সঞ্চয় যখন দেউলিয়া তারাই যোগ্য হয়ে ওঠে ভারতরত্ব পাওয়ার। মৃঙ্গাবিচারের কী অপূর্ব পরাকার্চা।

গ্রবীর হালদার লগ্নীপুর, গোবরভাঙ্গা উত্তর ২৪ প্রগনা।

২০ জানুয়ারি বর্ডমানটি হাতে আসা মাত্র নেতাজির ছবিটা দেখে বুকটা আনম্পে ভরে গোল। কিন্তু এই আনন্দের পালে দুঃৰ ছিল বুঞ্জে পারিনি। নেতাজিকে ভারতরত্ব। তার অশ্বদিনে এতবড় অপমান আর হয় না। আবার বিনা মরনোত্তর ভারতরত্ব। ধিক বর্তমান শাসকদলের, রাষ্ট্রপতির সিদ্ধান্তের। এমন সরকারি সিদ্ধান্ত ভারতবর্ষের নেতান্তি প্রেমী মানুব মানছে না মানবে না। ওই সরকারি সিচ্চান্ত জালিয়ে দাও পুড়িয়ে দাও। বার মৃত্যু সন্দর্কে এখনোও সম্পেহ আছে। বই পড়ে যতটুকু জেনেছি, অন্তত তাইহোকু বিমান বন্দৰে তাও মৃত্যু হয়নি। সমস্ত দেশবাসীর হুদুয়ে তার আসার পথ এখনোও তৈরি হয়ে আছে। এমন সময়ে হেলেখেলার মতো ঘোষণা, নেতালিকে মরণোত্তর ভারতরত্ব।

গাঙীজী বলেছেন 'আমি বিশ্বাস করি সূতার বৈচে আছে। সময় হলে সে আসবে।' আরোও বলেছেন, 'নেতাজির নাম তথু কয়না করা ধার বাত্তববে ভাবা যায় না।' ওকার রোবস লিখছেন, 'বুছের পালে বসবার মতো একটি মাত্র লোক আমি দেখেছি, তিনি হােনান নেতাজি বসু।'

সেই মহাজীবনকে রত্নভূষিত করার কথা আমাদের জনদরদী (!) গণতম্বশিগ্র (!) সরকার বাংদ্বের কেন মনে পড়ল গ দেবাশিষ পুরকাইত,

मः २८ भद्रशना

তপুমাত্র কাগজে লেখা মানপত্র দিয়েই নেতাজিকে সম্মান জানানো যায় না। নেতাজিকে প্রত্যেক ভারতবাসী সর্বদা উচ্চাসনে বসিয়ে রাখবে মতদিন এই ভারত থাকবে। অনুপম, কলকাতা বাজেটৈ তালচের-> মলুর না

রুবে ভারর্ত

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বিমান
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এক লক্ষ
মাসের ব্রি
শেব না হ
করে ভারতে
সব্য যাওঃ
ইউনিগনে

र्णाः भूलिः नागमः

ভেবে দে

পলিটে।
হত্যা ক
পূলিশ ক
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এদিকে, ফ
১৫ কি
ফানোজের
তাদের বণ্
পূলিশের
শক্তের
পূলিশ
দেশতে প

भा

চতিগঞ্জ, প্রাফেন ফু সাধারণ স্ব বলেছেন, করবে না সরকার প্র

টোতাং বৈঠকে ছ ভোটদাতা দিতে পার পরিস্থিতি সরকার শ চাইছে। তমিকে

তদিকে
বাাপারে 

পৃততার সং

যমুনার জঃ
অভিযোগ
বেপ কি
বাজাপালে
ভাগাভাগি
কৌতাঃ

285

S. K. KUNDU CENTRAL GOVT. ADVOCATE

SPEED POST

No. 15/B/Home/93 | 375A

Government of India
Ministry of Law & Justice
Department of Legal Affairs
Branch Secretariat, Calcutta.
4, K.S.Roy Road, Calcutta - 1

7.9.93 Dated

To Shri V.P.Bhatia, Undersecretary (P&V) Ministry of Home Affairs, North Block, New Delhi 110001

Dear sir,

CO No. 6720(w)/93 Bijan Ghosh -vs-UOI & Ors.

In connection with the above matter and with reference to my earlier letter dt.lst September 1993 I am forwarding herewith five affidavits for finalisation at your end. Those are one in respect of Sunil Krishna Gupta, another in respect of Amiya Nath Bose and three in respect of Bijan Ghosh.

You are requested to take immediate action on them and also to make the affidavits by the Secretary, Ministry of Home Affairs and the Secretary, Ministry of Human Resources explaining delay in filing the affidavits as well as in producting the records. Kindly do the needful and please note that the motters are to appear on 22nd September 1993 for hearing and the department is to file their Affidavits in opposition by 17.9.93. Please also note that the Shri R.N.Das, senior advocate requires a full-fledged consultation in connection with the matter beforehand.

Encl: five draft affidavits.

Yours faithfully,

( s k kundu )

POST

Copy to: Shri P.C. Kannan, Addl.Legal Adviser,
Ministry of Law Justice & CA, Deptt. of Legal Affairs
Shastri Bhawan, New Delhi 110001 - for information and
giving necessary instructions to the concerned deptt. for
doing the needful at an early date.

Dec at 7 in fra

( S K Kundu )

37) Settled RN Dus 23/1/93

C.O. No. 6720(W) of 1993.

Shijim Ghrihma Supta.

Vs.

Union of India and Thers

I, V.P. Buntia.

son of Shri

aged about

years by occupation

residing at

Calcutta,

do hereby solemnly affirm and say as follows :-

1. I am the Asstt.

Calcutta

aequainted

the respondent No. herein and I am acquisted with the facts and circumstances of the case.

2. I have been duly xxx authorised and am xxxxxt competent to make and affirm this affidavit on behalf of the respondent

Nos.

3. I have read a copy of the petition purported to be under Artifle 200 of the constitution of India (hereinafter referred to as the said setition) and I have understood the contents, meaning and purport thereof.

4. That I have been advised to traverse only those allegations and/or statement of paragraphs in the said paragraph what are relevant and material for deciding the

main issue of the instant petition. Save and except what we matter of velord and save and except what have been specifically all all allegations and confilled what save proposed in the remaining for the matters of records and said what

said petition and put the petitioner to strict proof thereof.

With reference to paragraphs 7 and 8 of the said petiti I deny and dispute, the statement made therein save what are matter of records and save what appears therefrom I state that the affiguret are incorrect and are denied because nothing contained in the Constitution debars the Government from extending recognition to individual acts of outstanding merit by way of orders and decorations, in the sphere of social work, art, science and literature, to acts of gallantry in the battle field and any other fields of service and to acts of conspicuous devotion to duty in general. A Press Note was issued by the Government of India on April 17, 1968, making it abundantly clear that the use of Civilian Awards such as Padma Vibbu an and Padma Bhushan and Padma Shri as ik titles in letterheads, invitation cards, posters, books, etc. is against the scheme of the Government as these Awards are not titles and their use along with the names of individuals is contrary to the spirit of the Constitution which has abelished titles. A copy of the said note is annexed herewith. It was also emphasised in this Press Note that no civilian award should be affixed or prefixed with the name of the awardee to give an appearance of a title. It is further denied that the decision to confer Bharat Ratna on Netaji Subhas Chandra Bose was a dishonour to him, since this decision was taken by the Government keeping in view the relentless x and valiant struggle and contribution made by him for the cause of India's freedom.

7. With reference to paragraph 9(a) to (d) of the petition

I deny and dispute, the statements made therein save what are matter of records and save what appears therefrom I state that the partly a reproduction of certain portions from the publication "Bangladeshar Itihas-Vol.IV" and partly his own feelings about Netaji and as such need no comments except that Award of Bharat Ratna Announced for Netaji is not a dishonour to the great leader.

- : 3 : -

With reference to paragraphs xxxxxxxxx 24 of the said patition I deny and dispute, the statements made therein save what are matter of records and save what appears therefrom I state that on 7th August, 1991, in connection with a special mention by Shri Pramod Mahajan, M.P., Rajya Sabha, Members Present had urged the Government to confer Bharat Ratna Posthumously on Maulana Abul Kalain Azad and Shri Subhash Chandra Bose. Keeping in view the sentiments of the Hon'ble Members and On recognition of their public service of the highest order, the names of Maulana Azad and Netaji were approved ! by the President of India for the award of Bharat Batna and the same were announced on 23rd January, 1992. Hence, it is wrong to say that the people of India did not accept the conferment of Bharat Ratna on Netaji. However, to avoid any unnecessary controversy, the Governmenta decided notwithstanding the earlier announcement made on 23rd January, 1992, not to take any further action in the matter and to treat the same as closed. Government have already accepted the findings of both the Netaji Inquiry committee and the Khosla Commission to the effect that Netaji Died in an aircrash at Taihoku on 18th August, 1956.

9. With reference to paragraph 27 of the said petition,
I deny and dispute, the statements made therein save what are matters
of records and save what appears therefrom. I state that as regards
a Migh level probe by an Expert committee alleged to have been
ordered by the then :Prime Minister, Shri Chandrasekhar, no
records are avilable in this Ministry.

- and dispute, the statements made therein save what are matters of records and save what appears therefrom. I state that is unfounded in view of the fact that the Government have already accepted the reports of Netaji Inquiry Committee and the Khosla Commission about the death of Netaji in an aircrash on 18th August, 1945.
- With reference to paragraph 42 of the said petition

  I deny and dispute, the statements made therein save what are matters of records therefrom I state that is not relevant in view of the fact that Government have already accepted that Netaji died in an xixxx xi aircrash at Taihoku on 18th August, 1945.

Affidevit

I deny and dispute, the statements made therein save what are matters of a records therefrom. I state that the statement was made by Shri Morarji Desai, the then Prime Minister, in Lok Sabha on 28.8.1978 and not on 3rd September, 1978, as claimed. This statement by Shri Desai did not amount to outright rejection of the conclusions arrived by the Netaji Inquiry committee and the Khosla Commission. Besides, at the end of his statement, Shri Desai also added that no useful purpose would be served by having any further inquiry.

375

- : 5 : -

14. With reference to paragraph 44 of the said petition

I deny and dispute, the statements made therein mx sale what are
matters of records therefrom a I state that in view of the stand
of the Government not toxements pursue any further the matter of

matters of records therefrom A I state that in view of the stand of the Government not toxpurpus pursue any further the matter of award of Bharat Ratna on Netaji Subhash Chandra Bose, the petition itself needs to be rejected outright.

The statements made in paragraphs 1.2 and to a bold who we true to are true to my knowledge and information in derived from the record, and the rist are my submissions before the House lours.

Prepared in my office

The deponent is known to me

Advocate.

Clerk to :

Mrss

376 District : Calcutta. IN THE HIGH COURT AT CALCUTTA Constitutional Wint Jurisdiction (Appellate Side) C.O. No. 6720(W) of 1993 In the matter of : An application under Article 226 of the Constitution of India. And In the matter of i Amiyanath Bose .. Added Respondent - verses -Union of India and Am .. Respondents. Affidaut is apposition to the on behalf of Respondent No. 1.

397 Last hape IN THE HIGH COURT AT CALCUTA
Constitutional Wait Jums diction
Appellate Side C.O. No. 6720 (W) of 1993 In the matter of ! an application under Article 28 of the Conshhinon of India And And In the matter of: Bigan Chash Amyanath Bose --- Added Red - versus -Union of India & Anr - Respond Affidavit in - Oppossition by V.P. affirmed the - - day of s MRS. Ara x street, calcuta-1. 6, old Por

Affidavit in Opposition on behalf of the Respondent Ngo. 1

I, V. P. BHATIA son of Late

Shi M.L. Bhatia aged about 50 years, by occupation, service workens for gain at New Delli in the Ministry of Home Attacks, residing at 5/602, Lodhi Colony, New Delhi-110003)

o hereby solemnly affirm and say

as follows :-

- 1. I am the Under Secretary in the Ministry of Home Affairs. Government of India and an filing this Affi doubt in Opposition for and on behalf of The respondent No. 1 herein and I was am acquainted with the facts and circumstances of the case.
- I have been duly authorised and a am competent to make and affirm this affidavit on behalf of the respondent No. | -
- 3. I have read a copy of the petition purported to be under Article 226 of the constitution of India (hereinafter a referred to as the said retition) and I a have understood the contents, rema meaning and purport thereof.
- That I have been advised to traverse only those allegations and/or statement of paragraphs in the said petition what are relevant and material for deciding the main issue of the instant petition.
- Save except what are matters of records and said what appears therefrom I deny each and every allegations made in the said polition and put the peritioner to strict proof thereof.

W. E. L.

. : 2 : -

3 and 4

I deny and dispute, the statements made therein save what are matters of records and save what appears therefrom I state that the Award of Bharat Ratna is conferred for exceptional services towards the advacement of Ort, literature and science and in recognition of public service of the highest order. The decision to confer Bharat Ratna posthumously on Netaji Subhash Chandra Bose was taken keeping in view his relentless and valiant struggle and significant contribution for the cause of India's freedom and the intention of the Government was to accord the highest civilian recognition by way of conferring Bharat Ratna on him. It is denied that in conferring Bharat Ratna and Netaji, Government have in any way dishonoured him.

As regards the contentions of the petitioner relating to death of Netaji, it may be stated that the Government accepted the findings of both the Netaji Inquiry Committee and the Whosla Commission to the effect that Netaji died in an aircrash in Taihoku on 18th August, 1945. It was accordingly that in the President's announcement on 23rd January, 1992, the award was regarded as

"Posthumous". In this context, I specifically deny the alligation that the decision of the Government to confer Bharat Rama on Netaji Suth Chantra Poss perthamously is a crude or clumsy attempt to dishorm Netaji.

7. With reference to paragraph 29 of the said petition, affiliated I deny and dispute, the statement made therein save what are matters of records and save what appears therefrom I state that as it already stated, the Government accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an aircrash at Taihoku on 18th August, 1945.

Property.

. : 3 : -

H production of the second

With reference to paragraph 35 of the said petition, I deny and dispute, the statement made therein save what are mattercof records and save what appears therefrom I state that the contents of this para are not relevant to the main question at issue, namely the death of Netaji in an air-crash which has been accepted as a fact by Government of India. I diny my listale the Maplion That som amy kerson in the yovernment of India have misa I deny and dispute, the statement; made erein save what are matters of records and save what appears therefrom I state that the statement made by Shri Morarji Desai, the then Prime Minister, in the Lok Sabha on 28.8.78 (not on September 3, 1978, as contended by the Petitioner) did not amount to outright rejection of the conclusions arrived at by the Netaji Inquiry committee and the Khosla Commission. Shri Desai onl ated that reasonable doubts had been cast on the correctness of the conclusions reached earlier, Also, some contradictions in the testimony of witnesses had been noticed and some further contemporary official documentary records had also become available in the light of all of which it would difficult to accept the earlier conclusions as decisiva. However

deny and dispute, the statement made therein save what are matter of record and save what appears therefrom I state that in view of the Lategorical statement of Shri Morarji Desai to the Effect that no useful purpose would be served by having any further inquiry, findings of both the Netaji Inquiry committee and the Khosla Commission to the effect that Netaji died in an Aircrash at Taihoku on 18th August, 1945 and duly accepted by the Government, would hold good.

Shri Morarji Desai also added that no useful purpose would be

served by having any further inquiry.

2

. 4 : -

Il. With reference to paragraph 44 of the said petition,

I deny and dispute, the statement made therein save what are matters
of record and save what appears therefrom I state that aspect
relating to the death of Netaji has been gone into exhaustively both
by the Netaji Inquiry committee and the Khosla Commission
reports of which have already been accepted by the Covernment.

- 12. With reference to paragraph 45 of the said petition,

  I deny and dispute, the statement made therein save what are mattery
  of record and save what appears therefrom I state that in view
  of the information contained in the reports of the two commissions
  under reference, nothing further is required to be communicated
  by the Government by way of any additional information.
- I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that in view of the various documents submitted in the evidence and considered by the two Commissions and in the absence of any specific clue to the contrary and Government having already accepted the conclusion that Netaji died in an aircrash on 18th August, 1945, no use ful purpose would be served in the matter of the death of Netaji by taking up with the concerned authorities of archives of K.G.B. axxaantandadxbyxthaxpetitimmerxim
- I deny and dispute, the statement made therein save what are matter of record and save what appears therefrom I state that as already stated, the contention of the petitioner that conferment of Bharat Ratna on Netaji was a deliberate act to insult and dishonour him is his personal opinion. It amounts that an insinuation and is denied.

The state of the s

362 But those who are ruising objection to the Conforment of Bharry Rather to a great ledder like Netnji Snihasydose are in fact showing disvespect to Netaji Subhus Bose The said affidavil next specifically traversed, I say has the antents of are true to my knowledge and information in derived from another humble an ul) of xevord, the record, and the rist are mypulmissions. his my and save and exust What will Prepared in my office The deponent is known to me appear from Clerk to : reword I dong Advocate Mrs. and dispute it all ullegations contained in the said paragraphs as if set out in seriation and denied.

Settled Russas 5.9.93

### In Re: BIJAN KUMAR GHOSH

(Set out the full cause -title)

Affidavit-in-Opposition to the Writ Petition by the Respondent Nos. 1 and 2.

I, V. P. Blong	son of
Late San M. L. Blotha	_ aged
about 50 years, by occupation Service,	working for
gain at New Delhi in the Ministry of H	one Attain
do hereby solemnly affirm and say as follows	1-

- 1. I am the Under Secretary in the Ministry of

  Home Attack, Govt. of India and am duly authorised

  and competent to affirm this affidavit for and on behalf

  of the Respondent Nos. herein.
- 2. I have read a copy of the writ petition and understood the purport and contents thereof.
- 3. Save and except the statements expressly admitted hereinafter and save and except what appears from the records, all allegations contrary thereto and/or inconsistent therewith shall be deemed to have been denied and disputed by me.

-: 2 :-

4. Before dealing with the Statements or allegations contained in the writ petition, I beg to set the following:-

State

- findings of both the Shel Nawaz Khan Committee and the Khosle Commission to the effect that Netaji died in an aircrash at Taihokum on 18th August, 1945;
- (b) The Report of the Khosle Commission along Achen Taken with the Memorandum of Articles taken therein was laid on the table of the both the Houses of Parliament on 3rd September, 1974;
- the then Prime Minister in the Lok Sabha
  on 28th August, 1978 did not amount to
  outright rejection of the conclusions
  artived at by the Shel Nawas Committee
  and the Khosle Commission. Shri Desai had
  as stated that reasonable doubts had been
  cast on the correctness of the conclusions
  reached earlier. M Also some contradictions
  en the testimony of witnesses had been
  noticed and some further contemporary official

documentary records had also become available in the light of all of which it would be difficult to accept the earlier conclusion as decisive. However, Shri Morarji Desai had also added that no useful purpose would be served by having any further enquiry.

- d) It does not appear from the records in the Ministry that any alleged third Enquiry Commission was ordered by Shri Chandra Sekhar, the then Prime Minister.
- e) On 7th August, 1991, in connection with Makejen a Special Mention by Shri Pramod Mehajas M.P.

  Rajya Sabha, members present had urged the Gomermment to confer Bharat Ratna posthumously on Maulana Abul Kalam Azad and Shri Subhas Chandra Bose, keeping in view of the sentiments of these Hon'ble Members and in recognition of this Public service of the highest orders, the norms of Maulama Abul Kalam Azad and Netaji were approved by the President of India for the award Bharat Ratna for the award of Bharat Ratna and the same were announced on 23rd January, 1992.

-: 4 :-

f) The award of Bharat Ratna is conferred for exceptional service towards the advancement of Art, Literature and Science and in recognition of Public Service of the highest order. The decision to confer Bharat Ratna posthumously on Netaji Subhas Chandra Bose was taken keeping in view his relentless struggle and contribution for the cause of India's freedom. It is further denied that this decision was taken without any application of mind;

9 Lof the people

- public reaction and sentiments, and to avoid any unnecessary controversy, the Government decided, notwithstanding the earlier announcement, not to take any further action in the matter and to treat the matter as closed.
- h) The Writ Petition is not maintainable in as much as no legal right of the petitioner is affected. The decision to confer honour or an award is purely administrative decision of the Government.
- 5. Fully relying on the above, I now beg to deal with the statements or allegations contained in the writ petition.

-: 5 :-

the petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. The contentions of the petitioner in paras 2, 3 and 4 are not correct and are denied. The Government accepted the findgins of both the Shah Nawaz Khan Committee and the Khosla Commission to the effect that Netaji died in an air-crash at Taihoku on 18th August, 1945. It was accordingly that the President's announcement of the award of Bharat Ratna to Netaji Subhash Chandra Bose on 23rd January,1992 was regarded as "posthumous".

The statement made by Shri Morarji Desai, the then Prime Minister, in the Lok Sabha on 28.8.1978 did not amount to outright rejection of the conclusions arrived at by the Shah Nawaz Committee and the Khosla Commission. Shri Desai only stated that reasonable doubts had been cast on the correctness of the conclusions reached earlier. Also, some contradictions in the testimony of witnesses had been noticed and some further contemporary official documentary records had also become available in the light of all of which it would be difficult to accept the earlier conclusions as decisive. However, Shri Morarji Desai also added that no useful purpose would be served by having any further inquiry.

As regards the alleged Third Enquiry Commission ordered by the then Prime Minister, Shri Chandrasekhar, no records are available in this Ministry. -1 6 1-

Petition, I reiterate the statements made hereinbefore.

I say further that the contention of the petitioner that awarding Bharat Ratna to Netaji Subhas Chandra Bose is a dishonour, rather then an honour, is his personal view which is incorrect. The decision to confer Bharat Ratna on Netaji Subhas Chandra Bose was taken by the President of India Keeping in view his released for the independence of India and his contribution for the cause of India's freedom. It is denied that this decision was taken a without any application of mind as alleged.

Or at all. Save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed.

Ceeping in view Source of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors and Criticians and the average of the public yearhors are the public year of th

and/or inconsistent therewith are defied and disputed.

Keeping in view forms of the public yearliens and Conficients

and to avoid any uniquestry controvers, the gonroment devided missiplication in the matter and to real the motion

8. The statements made in paragraph 9 of the as

petition are parts of the history.

9. With regard to paragraphs 10,11 & 12 of
the petition, I say that the Gover have accepted
the report of that Netaji Subhas Chandra Bose died
in an Aircrash on 18th August, 1945 at Taihokor In
view of this, the contention of the petitioner but
are not relevant and are decleved Save as aforesaid,
and save what appears from the records, all allegations
contrary thereto are denied and disputed.

Netaji Subhi have alread hereinbefor belive Sush infrom the reformation in an and/or incommenter of personal objinion of 11. With the belitioner I say that which is not Subhas Chan in an Aircrash in an Aircrash

of the petition, I say that the contention that freedom of information should be honoured as a fundamental right is his own view and not correct. As regards information relating to the death of Netaji Subhas Chandra Bose, the stand of the Government have already been made clear in the statements made hereinbefore. Save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed.

- I say that the Govt. had accepted that Netaji
  Subhas Chandra Bose died on 18th August, 1945 in
  an Aircrash at Taihoku: Accordingly, conferment of
  the award of Bharat Ratna as Netaji Subhas Chandra
  Bose was rightly regarded as a posthumous conferment.
  Save as aforesaid and save what appears from the
  records, all allegations contrary thereto are denied
  and disputed.
- I rely on the statements made hereinbefore. I say with regard to paragraph 18 of the petition, I rely on the statements made hereinbefore. I say with regard to made hereinbefore. I say further that the documents mentioned inthe 'Transfer of Property 1942-47', the have no direct bearing on the aspect of the death of Netaji Subhas Chandra Bose. In view of the acceptance by the Govt, of

## -1 8 :-

India, the death of Netaji Subhas Chandra Bose in the aircrash at Taihoku on 18th August, 1945, the question of the stay of Netaji Subhas Chandra Bose in Soviet Russia after the said period, does not arise. Save as aforesaid and save what save what appears from the records, all allegations contrary thereto are denied and disputed.

Pona 19 - No comments

The submissions contained in paragraphs
of the petition are wholly incorrect and denied.
I am advised to submit that correct submissions
will be made at the time of hearing.

14. The submissions contained in paragraphs 21, 22, 23, and 25 of the petition are incorrect and denied. I am admised to submit that correct submissions will be made at the time of hearing.

15. That the statements made in paragraphs
1, 2,& 3 are true to my knowledge and those
contained in paragraphs 4, 5, 6, 7, 8, 9, 10, 11,
and 12 are my informations derived from the records
which information I verily believe to be true and
those made in paragraphs 13 and 14 are my humble
submissions to this Hon'ble Court.

Prepared in my office

The deponent is known to me

Advocate

Clerk to Mr.

(Gin Cans Title) Settled Rubas (Shri Bijan Ghosh.) 5/9/93

Affidavit in opposition on behalf of the Respondents Nos.

I, Shri

son of

aged about years by occupation

residing at

do hereby solemnly affirm and say as

follows : -

1. I am the

ainted with the facts and circumstances of the case.

2. I have been duly authorised and competent to make and affirm this affidavit on behalf of the respondent Nos.

application for adimetrian injunction

3. I have read a copy of authorition purported to be which in Sufferfield by the applicant of Still junghese affirm under article 206 of the constitution of India (hereinafter on 2 day of July 1993, (hereinafter referred to as the said petition) and I have understood the contents, meaning and purport thereof.

- 4. That I have been advised to traverse only those allegations and/or statement of paragraphs in the said petition what are relevant and material for deciding the main issue of the instant petition.
- 5. Save except what are matters of records and said what appears therefrom I deny each and every allegations made in the said petition and put the petitioners to strict proof thereof.

- G. With reference to paragraph 2 of the said petition

  I deny and dispute the statement made therein save what are matter

  of records and save what appears therefrom I state that the

  decision to confer Bharat Ratna Posthumously on Netaji Subhash

  Chandra Bose was taken keeping in view his relentless struggle and

  contribution for the cause of India's freedom. However, beeping

  in view the widespread public reaction and criticism and to avoid

  any unnecessary controversy, the Government decided, notwithstanding

  the earlier announcement dated 23rd January, 1992, not to take any

  further action in the matter and to treat the matter as closed.
- 7. With reference to paragraph 3 of the said petition

  I deny and dispute the statement made therein save what are matters

  of records and save what appears therefrom I state that the

  since the government has already taken a decision not to proceed

  any further in the matter, the contentions of the petitioner

  in para 3 are unfounded.
- 8. With reference to paragraph 4 of the said petition

  I deny and dispute the statement made therein save what are matter 5

  of records, and save what appears therefrom I state that that

  ENUTARIZED THE SAME AND SAVE THE SAVE TH
- 9. With reference to paragraph 4A of the said petition
  I deny and dispute the statement made therein and what are matters
  of records and save what appears therefrom. I state that the stay
  granted by the Madhya Pradesh High Court was vacated by the
  same High Court on 20th January, 1993. Further, Government is
  not aware of any ad-interim order granted by the Kerala High Court.

1-1913 Home 190

I deny and dispute the statement made therein xx say what are matters of records and save what appears therefrom. I state that the in view of the position explained in response to para 3 above, Government of India is not contemplating any arrangements to confer the decoration of Bharat Ratna on Netaji Subhash Chandra Bose.

I deny and dispute the statement made therein x say what are matters of records and save what appears therefrom I state that in view of the position stated in the foregoing paragraphs, the petitioner's apprehensions are unfounded.

those contained in paragraphy 6 to 11 are

12. The statements made in paragraph; to U

are true to my knowledge and informations in derived from
the record, which information I verily believe to be true as that
made in homeprofit 5 is my humber outsignment to his How De
Coul-

Prepared in my office

The deponent is known to me

Advocate.

Clerk to :

Mrs.

1-15/13. Home 193. Co. 672 0 (w) 1993.
Bijan Ghosh of most short a term I . worther bett are a man a man the subdet Charan of character of State Care a Umion of Indi person and the property of the feet of the partition of an act in a displacement paner the design the statement made are as a state is but the daft Affidauit. Welver delle mante i montennet success point even 10. The state and a make in earst this to be more territies of material all for a to find the constitution of is necess, which introduction I wantly believe to be tree and the all the series of the second of the series · daggvin s of sire La

Affidavit-in-Opposition on behalf of the Respondents Nos.

I, Sri VP Bldne

son of Shri M L Bloke

aged about 10 years by occupation con a form at Na. Section as US in 14 mg A

do hereby xxxxx solemnly affirm and

say as follows: -

1. I am the US in the PA The affidant to 4 on held the respondent No. herein and I am acquinted with the facts and circumstances of the case.

2. I have been duly authorised and am competent to make and affirm this affidavit on behalf of the respondent No.

Supplement way affectively of the petition purported to be will Pulliner affection of the petition purported to be under article 226 of the Constitution of India (hereinafter referred to as the said putition) and I have understood the contents, meaning the purport thereof.

- 4. That I have been advised to traverse only
  those allegations and/or statement of paragraphs in the said

  \*\*Index\*\*

  production what are relevant and material for deciding
  the main issue of the instant petition.
- Save except what are matters of records and said what appears therefrom I deny each and every allegations made in the said position and put the petitioner to strict proof thereof.

I deny and dispute, the statement made therein save what are matter of records and save what appears therefrom. I state that is not contested except that Netaji Inquiry Committee was appointed by the Government of India as per Notification No.F 30(26)FEA/55 dated the 5th/ April, 1956, consisting of Shri Shah Nawaz Khan, M.P. and Shri Suresh Chandra Bose, elder brother of Netaji and Shri S.N.Maitra, ICS, Chief Commissioner, Andaman & Nicobar Islands. Shri Radha Binode Pal was not taken in this Committee. All the Members agreed that there had been an aircrash at Taihoku in Formosa in which Netaji met his death; that he was cremated there and the ashes were lying at the Renkoji Temple in Tokyo. Subsequently, however, Shri Bose took a

7. I'm State ments contained in parts 34 the said affection have matters of vacand and 2 prave leave & refork the Skrissi L. D. Khosha report by the time of supring.

With reference to paragraphs 4,5 and 6 of the said

petition I deny and dispute, the statement made therein save what are matter of records and save what appears therefom. I state that the One man Commission of Inquiry into the disappearance of Netaji Consisting of Shri G.D.Khosla, retired Chief Justice of the Punjab High Court as sole member in the Course of proceedings of the Commission of Inquiry afforded three separate occasions to Profe. Samar Guha testifying before the Commission and it was only after giving full opportunity to Prof. Samar Guha and others that Shri Thosla submitted his report to the effect that Netaji died in an aircrash at Taihoku on 18th August, 1945, and that two days later, leading body was cremated and his ashes were carried to Tokyoo in the beginning of September, 1945 where they were deposited in the Rank Rinkoji Temple. This report of the Commission was accerted by

the Government and the report along with the Memorandum of Action Caken thereon was laid on the Table of both the Houses of Parliament on 3rd September, 1974. The statement made by Shri Morarji Desai, the then Prime Minister, in the Lok Sabha on 28.8,78 (not on September 3, 1973, as contended by the petitioner) did not amount to outright rejection of the conclusions arrived at by the Shen Inquiry
News Committee and the Khosla Commission. Shri Desai only stated that reasonable doub shad been caston the correctness of the conclusions reached earlier. Also, some contradictions in the testimony of witnesses had been noticed and some further contemporary official documentary records had also become available in the light of all of which it would be difficult to accept the earlier conclusions as decisive. However, Shri Morarji Desai also added that no useful purpose would be served by having any further inquiry. As regards the contentions of the Petitioner in parag 5 of this supplementary petition, attention is invited to the reply to para 18 of the main writ petition that documents etc. published in the "Transfer of Power 1942-47" have no direct bearing on the aspect of death of Netaji Subhas Chandra Bose. As regards the contentions of the petitioner about the stay of Netaji in Soviet Russia, in view of the acceptance by the Government of his death on 18th August, 1945 in an aircrash, no comment is called for.

Para 7 aw 8
Pars 9

I deny and dispute, the statement made therein save what are matters of records and save what appears therefrom. I state that the looping in view the widespread public reaction and criticism and to avoid any unnecessary controversy, the Government have decided, notwithstanding the earlier announcement, not to take any further action in the matter and to treat the matter as closed. In view

. : 4 : -

of this decision all other contentions of the petitioner are irrelevant.

- 9. With reference to paragraph 12 of the said petition

  I deny and dispute, the statement made therein save what are matter

  of records and save what appears therefrom. I state that the

  Government of India has already decided not to take any further action
  in the matter of conferment of Bharat Ratna on Netaji and to treat the

  matter as closed.
- I deny and dispute the statement and made therein save what are matter of records and save what appears therefrom. I state that in para 13 fm Smil mijihovi ave denied since Government of India had already accepted that Netaji died in an aircrash at Taihoku on 18th August, 1945.
  - Il. With reference to paragraph 15 and 16 of the said petition.

    I deny and dispute the statement made therein save what are matters of records and save what appears therefrom. I state that calls for no comments as Government have already accepted the findings of both the Netaji Inquiry committee and the Khosla Commission that Netaji died on 18th August, 1945 in an aircrash.
  - 12. With reference to paragraph 17 of the said petition

    I deny and dispute the statement made therein save what are matters

    of records and save what appears therefrom. I state that the contents

    of this para are irrelevant since Government of India have already

    accepted that Netaji died on 18th August, 1945 at Taihoku.

Par 13,19,20

13. The statements made in paragraph / to 4 are true to my knowledge and information in derived from the record.

Prepared in my office

The deponent is known to me.

Clerk to :

Advocate

Mr.

312

OUT TODAY

#### MINISTRY OF HOME AFFAIRS

JUDL. DIVISION

....

Letter dated 24.8.93 along with order of the Court received from Shri Bijan Ghosh, Advocate, Calcutta High Court is sent herewith. A copy of the FAX message sent to Shri S. Guptoo, Senior Central Government Advocate, Calcutta and FAX message received from Shri S. Guptoo are sent herewith for appropriate action.

( M.L. GUPTA ) DIRECTOR (JUDL.) 13.9.93

Shri V.P. Bhatia, Under Secretary (Vigilance), MHA MHA U.O.No. 23/3/93-Judl. dated 13.9.93

Res. at 5.25h

# ian anosh HIGH COURT CALCUTTA

Registered with A/D.

22A CHAKRABERIA LANE **CALCUTTA 700 020** 24-08-93

BAR ASSOCIATION ROOM NO II BAR 28 3190 28 5579

1. The Secretary Ministry of Home Affairs South Block New Delhi-110001.

041308 -5 M 2. The Secretary Ministry of Human Resources & Development, Shashtri Bhawan, New Delhi-110001.

In Re: C.O.No.6720 (W) of 1993 Bijan Ghosh -Vs-Union of India and Ors.

Dear Sir,

Enclosed please find a plain copy of the order passed by the Hon'ble Mr. Justice Shyamal Kumar Sen on 2nd August 1993, which is self explanatory.

Thank you.

Yours faithfully,

Advocate

C.C. Senior Central Govt. Advocate, Ministry of Law and Justice 4, K.S. Roy Road, 2nd floor, Calcutta-700001.

गृह गन्त्राचन Ministry of Home Affairs नई दिल्ली New Delhi 3 U AUG 1993

17.9.93 have something)

[Nels] Parker Ration (a. Bushis)

Pedition with the car Bushis)

August 2, 1993 (Bijan Ghosh - Vs.- Union of India and others.)

Mr. Bijan Ghosh .. Petitioner appearing in person

Mr. Amiya Nath Bose .. In person

Mr. Sadhan Roy choudhury .. For added respondent Susanta Kumar Mitra

Mr. Partha Sengupta Mr. Arunava Ghosh

.. For added respondent Sunil Gupta

If Styamal Kinsis

None appears inspite of repeated directions of this Court to produce all records in the matter.

Secretary, Ministry of Home Affairs, New Delhi, respondent no.1 and the Secretary, Ministry of Human Resources & Development, New Delhi.

respondent no.2 are directed to produce all relevant records in connection with this case before this Court on 1.9.93 either by personally appearing before this Court or in the alternative to produce such records by their respective competent Officer duly authorised by them.

part-heard matter on 1.9.93. Petitioner is directed to communicate this order upon all respondents.

Let a plain copy of this order duly counter-

signed by the Assistant Registrar (Court) be handed over to the learned Advocates for the parties for compliance of the order, upon compliance of usual formalities.

Shyamal Kr. Sen.J.)

Place Coly 18.893

NAMES OF THE PARTY OF THE PARTY

made this



F. No.23/3/93-Judl.
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

Jaisalmer House, Mansingh Hoad, New Delhi-110011.

Dated, the 9th September, 1993.

To

Shri S. Guptoo,
Senior Central Govt. Advocate,
Ministry of Law and Justice,
(Branch Secretariat),
4, K.S. Roy Road, 2nd Floor,
Calcutta- 700001.
(FAX NO. 2485214) 248 5215

Subject:- C.O.No.6720(W)/1993-Bijan Ghosh versus U.O.I. & Others.

SHRI BIJAN GHOSH ADVOCATE HIGH COURT CALCUTTA HAS
SENT A PLAIN COPY OF THE ORDER PASSED BY HONOURABLE MR. JUSTICE
SHYAMAL KUMAR SEN OF SECOND AUGUST 1993 WHICH READS AS FOLLOWS:

"AUGUST C.O. 6720 (W) of 1993

1993 (Bijan Ghosh- Vs.- Union of India and Others)

Mr. Bijan Ghosh..... Petitioner appearing in person.

Mr. Amiya Nath Bose... In person

Mr. Sadhan Roy Choudhury...For added respondent Susanta Kumar Mitra

Mr. Partha Sengupta.... For added respondent
Mr. Aruneva Ghosh Sunil Gupta.

NON APPEARS INSPITE OF REPEATED DIRECTIONS OF THIS COURT TO PRODUCE ALL RECORDS IN THE MATTER.

SECRETARY MINISTRY OF HOME AFFAIRS NEW DELHI
RESPONDENT NO.1 AND THE SECRETARY MINISTRY OF HUMAN RESOURCES &
DEVELOPMENT NEW DELHI, RESPONDENT NO.2 ARE DIRECTED TO PRODUCE
ALL RELEVANT RECORDS IN CONNECTION WITH THIS CASE BEFORE THIS

COURT ON 1.9.93 EITHER BY PERSONALLY APPEARING BEFORE
BEFORE THIS COURT OR IN THE ARTERNATIVE TO PRODUCE SUCH
RECORDS BY THEIR RESPECTIVE COMPETENT OFFICER DULY
AUTHORISED BY THEM.

LET THIS MATT ER BE LISTED AS SPECIALLY FIXED PART HEARD MATTER ON 1.9.93. PET ITIONER IS DIRECTED TO COMMUNICATE THIS ORDER UPON ALL RESPONDENTS.

LET A PLAIN COPY OF THIS ORDER DULY COUNTERSIGNED BY THE ASSISTANT REGISTRAR (COURT) BE HAND ED OVER TO THE LEARNED ADVOCATES FOR THE PARTIES FOR COMPLIANCE OF THE ORDER, UPON COMPLIANCE OF USUAL FORMALITIES.

Shyamal Kr. Sen. J)

SD/-SHYAMAL KUMAR SEN

BY RETURN FAX MESSAGE ON MINISTRY OF HOME AFFAIRS FAR NO.

3015750 AND COPY OF THE PETITION BY SPEED POST.

( S.K. BOSE )

JOINT SECRETARY TO THE GOVT. OF INDIA TEL. NO. 385020 Dagsplanser sarps Ma Chay 10/9 10/9 10/9

### DISTRICT: CALCUTTA

IN THE HIGH COURT AT CALCUTTA

Constitutuonal Writ Jurisdiction

Appellate Side

C.O./C.R/ No. 6720 (W) of 1992 199

In the matter of : an application under Article 226 of the Constitution of India.

And

In the matter of :
Bijan Ghosh. .. Petitioner

-versus-

Union of India & Gar. Respondents.

Affidavit-in-opposition to the writ petition for and on behalf of respondent no.1.

I, V. P. Bhatia, son of late Shri M.L.Bhatia aged about 50 years, by occupation, service, working for gain at New Delhi in the Ministry of Home Affairs do hereby solemnly affirm and say as follows :-

- I am under Secretary in the Ministry of Home Affairs Govt. of India and am duly authorised and competent to affirm this affidavit for and on behalf of the respondent no.1 herein.
- 2. I have read a copy of the writ petition and under--stood the purport and contents thereof.
- 3. Save and except the statements expressly admitted hereinafter and save and except what appears from the record

all allegations contrary thereto and/or inconsistent therewith shall be deemed to have deem denied and disputed by me.

4. Before dealing with the statements or allegations contained in the writ petition. I beg to state the following:-

- a) The Government of India accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Hetaji died in an sircrash at Taihoku on 18th August 1945;
- b) The Report of the Khosla Commission along with the Memorandum of Action Taken thereon was laid on the Table of both the Houses of Parliament on 3rd September 1974;
- c) The statement made by Shri Morarji Desai the then Prime Minister in the Lok Sabha on 28th August, 1978 did not amount to outright rejection of the conclusions arrived at by the Netaji Inquiry Committee and the Khosla Commission. Shri Desai had stated that reasonable doubts had been cast on the correct-ness of the conclusion reached earlier. Also some contradictions in the testimony of witnesses had been noticed and some further

b .

contemporary official documentary records had also become available in the light of all of which it would be difficult to accept the - earlier conclusion as decisive. However, Shri Morarji Desai had also added that no useful purpose would be served by having any further inquiry;

- d) It does not appear from the records in the Ministry that any alleged third Inquiry Commission was ordered by Shri Chandra Sekhar, the then Prime Minister;
- e) On 7th August, 1991, in connection with a

  Special Mention by Shri Pramod Mahajan, M.P.

  Rajya Sabha, members present had urged the

  Government to confer Bharat Ratna posthumously

  on Maulana Abul Kalam Azad and Shri Subhash

  Chandra Bose. Keeping in view the sentimentsof

  these Hon'ble Members and in recognition of their public service of the highest order,

  the names of Maulana Abul Kalam Azad and Netaji

  were approved by the President of India for

  the award of Bharat Ratna and the same were

  announced on 23rd January, 1992;
- f) The award of Bharat Ratna is conferred for exceptional service towards the advancement of Art. Literature and Science and in recognition of public service of the highest ord er. The decision to confer Bharat Ratna posthumously

on Hetaji Subhash Chandra Bose was taken keeping in view his relentless struggle and contribution for the cause of India's freedom. It is further denied that this decision was taken without any application of mind;

- (g) However, keeping in view the widespread public reaction and sentiments of the people and to avoid any unnecessary controversy, the Government decided, notwithstanding the earlier announcement not to take any further action in the matter and to treat the matter as closed;
- (h) The writ Petition is not maintainable in as much as no legal right of the petitioner is affected. The decision to confer honour or an award is purely administrative decision of the Government;
- 5. Fully relying on the above, I now beg to deal with the statements or allegations contained in the writ petition.
- 6. With regard to paragraphs 1, 2, 3 and 4 of the petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. The contentions of the petitioner in paras 2, 3 and 4 are not correct and are denied. The Government accepted the findings of both the Netaji Inquiry Committee and the

-5 -

Khosla Commission to the eff ect that Netaji died in an air-crash at Taihoku on 18th August, 1945. It was accordingly that the President's announce ment of the award of Bharat Ratna to Netaji Subhash Chand- ra Bose on 23rd January, 1992 was regarded as "posthumouns".

The statement made by Shri Morarji Desai, the then Prime Minister, in the Lok Sabha on 28th August 1978 did not amount to outright rejection of the con-clusions arrived at by the Netaji Inquiry Committee and the Khosla Commission. Shri Desai only stated that reasonable doubts had been cast on the correctness of the conclusions reached earlier. Also, some contradic-tions in the testimony of witnesses had been noticed and some further contemporary official documentary records had also become available in the light of all of which it would be difficult to accept the earlier conclusions as decisive. However, Shri Morarji Desai also added that no useful purpose would be served by having any further inquiry.

As regards the alleged Third Inquiry Commission ordered by the then Prime Ministry, Shri Chandrasekhar, no records are available in this Ministry.

7. With regard to paragraphs 5, 6, 7 and 8 of the petition, I reiterate the statements made herein-before. I say further that the contention of the petitioner that awarding Bharat Ratna to Netaji Subhash Chandra Bose is a dishonour, rather than an honour,

is his personal view which is incorrect. The decision to confer Bharat Ratna on Netaji Subhash Chandra Bose was taken keeping in view his relentless struggle for the independence of In dia and his contribution for the cause of India's freedom. It is denied that this decision was taken without any application of mind as alleged. Save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denined and disputed. Keeping in view some of the public reactions and criticisms and to avoid any unnecessary controversy, the Government decided notwithstanding the earlier announcement not to take any further action in the matter and to treat the matter as closed.

8. The statements made in paragraph 9 of the petition are parts of the history.

9. With regard to paragraphs 10, 11 and 12 of the petition I say that the Government have accepted the report that Netaji Subhash Chandra Bose died in an Aircrash on 18th August, 1945 at Taihoku. In view of this, the contentions of the petitioner are not relevant and are denied as aforesaid, and save what appears from the records all allegations contrary thereto are denied and disputed.

10. With regard to paragraphs 13, 14, 15 and 16 of the patition, I say that the contention that freedom of information should be honoured as a fundamental right is his own view and not correct. As regards information relating to the death of Netaji Subhash Chandra Bose,

-7 -

in the statements made hereinbefore. The question of believe or not to believe such information is a matter of personal opinion of the petitioner which is not justiciable in a Court of Law. Save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed.

I say that the Government had accepted that Netaji Subhash Chandra Bose died on 18th August, 1945 in an
Aircrash at Taihoku. Accordingly, conferment of the award
of Bharat Ratna on Netaji Subhash Chandra Bose was rightly regarded as a posthumous conferment. Save as
aforesaid and save what appears from the records, all
allegations contrary thereto are denied and disputed.

12. With regard to paragraph 18 of the petition,
I rely on the statements made hereinbefore. I say further
that with regard to the documents mentioned in the 'Transfer of Power 1942-47', these have no direct bearing
on the aspect of the death of Netaji Subhash Chandra Bose.
In view of the acceptance by the Gov ernment of India, the
death of Netaji Subhas Chandra Bose in the aircrash at
Taihoku en 18th August 1945, the q estion of the stay of
Mataji Subhash Chandra Bose in Soviet Russia after the
said period, does not arise. Save as aforesaid and save
what appears from the records, all allegations contrary
thereto are denied and disputed.

-8 -

of the petition, wholly incorrect and denied. I am advised to submit that correct submissions will be made at the time of hearing.

14. The submissions contained in paragraphs 21, 22, 23 and 25 of the petition are incorrect and denied. I am advised to sub mit that correct submissions will be made at the time of hearing.

and 3 are true to my knowledge and those contained in paragraphs 4, 5, 6, 7, 8, 9, 10, 11 and 12 are my informations derived from the records which information I verily to be true and those made in paragraphs 13 and 14 are my humble submissions to this Hon'ble Court.

Prepared in my office

Advocate

The deponent is known to me

Clerk to Mr. Advocate.

Solemnly affirmed before me this the 17th day of September, 1993.

Commissioner

414

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

C.O/C.R. No.\_\_\_(W) of 1992
In the matter of:
an application under Article 226
of the Constitution of India.

In the matter of : Bijan Chosh. ... Petitioner

-versus-

Union of India & Ors. Respondents.

Affidavit-in-opposition, by V. P. Bhati
affirmed this 17th day of September, 1993.

Advocate, 6,01d Post Office Street, Calcutta-1.

### DISTRICT: CALCUTTA

IN THEHIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

C.O/C.R. No. 6720 (W) of 19923

In the matter of ; an application wider vacated order.

And

In the matter of : Bijan Ghosh. .. Petitioner

-VS-

Union of India & Anr. Respondents

Affidavit-in-opposition on behalf of respondent no.1

I, V.P.Bhatia, son of late Mark M.L.Bhatia, aged about 50 years, by occupation service, working for gain at New Delhi as Under Secretary in the Ministry of Home Affairs, Govt. of India, residing at 5/602, Lodhi Colony, New Delhi-3, do hereby solemnly affirm and say as follows:

1. I am under Secretary, in the Ministry of Home Affairs, Govt. of India and am duly authorised and competent to affirm this affidavit for and on behalf of the respondent no.1 herein and I am acquain ted with the facts and circumstances of the case.

1A.

2. I have been duly authorised and am competent to make and ak affirm this affidavit on behalf of respondent no. 1.

3. I have read a copy of the Suppelementary affidavit of the writ petitioner affirmed on 30th day of June, 1993 (hereinafter referred to as the said affidavit) and I have understood the contents, meaning and purport thereof.

those allegations and/or statements of paragraphs in the said affidavit what are relevant and material for deciding the main issue of the instant petition.

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- 5.. Save except what are matters of records and said what appears therefrom I deny each and every allegations made in the said affidavit and put the petitioner to strict proof thereof.
- in deny and dispute the statements made therein save what are matters of records and save what appears therefrom. I state that Netaji Inquiry Committee was appointed by the Government of India as per Notification No.F.30(26)/PEA/55, dated the 5th April, 1956, consisting of Shri Shah Nawaz Khan, M.P. and Shri Suresh Chandra Bose, eleder brother of Netaji and Shri S.N.Maitra, ICS, Chief Commissioner, Andaman & Nicobar Islands. Shri Radha Bineds Pal was not taken in this Committee, All the Members agreed that there had been an aircrash at Taihoku in Formosa in which Netaji met his death; that he was cremated there and the ashes were lying at the Renkiji Temple in Tokyo. Subsequently, however, Shri Bose took a different view and did not sign the report.
- 7.. The statements contained in para 3 of the said affidavit are matters of record and I crave leave to refer to the Shri G. D. Khosla report at the time of hearing.
- 8.. With reference to paragraphs 4.5 7 6 of the said petition I deny and dispute the statement made therein save what are matters of records and save what appears therefrom. I state that one man commission of Inquiry into the dispersance of Netaji consisting of Shri G.D.Koshla, retired the fustice of the Pubjab High Court as sole member, in the course of proceedings of the Commission of Inquiry

testifying before
the Commission and
it was only after
giving frent apportunity
to find. Saman Guha
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afforded three separate occasions to Prof. Samar Guha/his report to the effect that Netaji died in an aircrash at Taihoku on 18th August, 1945, and that two days later, Netaji's body was cremated and his ashes were carried to Tokyo in the beginning of September, 1945, where they were deposited in the Renkoji Temple. This report of the Commission was accepted by the Government and the report along with the Memorandum of Action taken thereon was laid on the Table of both the Houses of Parliament on 3rd September, 1974. The statement made by Shri Morarji Desai, the then Prime Minister, in the lok Sabha on 28.8.1978 (not on September 3, 1978, as contended by the petitioner) did not amount to outright rejection of the conclusions arrived at by the Netaji Inquiry Committee and the Khosla Commission. Shri Desai only stated that reasonable doubts had been cast on the correctness of the conclusions reached earlier Also, some contradictions in the testimony of witnesses had been noticed and some further contemporary official documentary records had also become available in the light of all of which it would be difficult to accept the earlier conclusions as decisive. However, Shri Morarji Dasai also added that no useful purpose would be served by having any further inquiry. As regards the contentions of the Patitioner in para 5 of this supplementary affidavit, attention is invited to the reply to para 18 of the main writ petition that documents etc. published in the "Transfer of Power 1942-47" have no direct bearing on the aspect of death of Wetaji Subhas Chandra Bose. As regards the contentions of the petitioner about the stay of Netaji in Soviet Russia, in view of the acceptance by the Government of his death on 18th August, 1945 in an aircrash, no

...4/-

comment is called for.

9.. With reference to paragraphs 10 & 11 of the said petitic I deny and dispute the statement made therein save what are matters of records and save what appears therefrom, I state that in view of some public reaction and criticisms and to any avoid any unnecessary controversy, the Government have decided, notwithstanding the earlier annoncement, not to take any further action in the matter and to treat the matter as closed. In view of this decision all other contentions of the petitions are irrelevant.

10. With reference to paragraph 12 of the said petition I deny and dispute the statement made therein save what are matters of records and save what appears therefrom, I state that the Government of India has already decided not to take any further action in the matter of conferent of Bharat Ratna on Netaji and to treat the matter as closed.

11.. With reference to paragraphs 13 and 14 of the said petition I dany and dispute the statement made therein save what are matters of seconds and save what appears therefrom, I state that the contention in para 13 of the said affidavit are denied since Government of India had already accepted that Netaji died in an aircrash at Taihoku on 19th August, 1945.

12.. With reference to paragraphs 15 & 16 of the said petition I duny and dispute the statements made therein save what are matters of records and save what appears therefrom,

--- 5/-

(332)

:5:

I state that the Government have already accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission that Netaji dies on 18th August, 1945 in an aircrash.

13.. With reference to paragraph 17 of the said petition
I deny and dispute the statement made therein save what are
matters of records and save what appears therefrom, I state
that the contents of this para are irrelevant since Government of India have already accepted that Netaji died on
18th August, 1945 at Taihoku.

14.. The statements made in paragraphs 1 to 4 are true to my knowledge and those contained in paragraphs 6 to 13 are my informations derived from the record, which information I verily believe to be true and that made in paragraph 5 is my humble submission to this Hon'ble Court.

Prepared in my office.

Advocate.

Deponent

The deponent is known to me.

Clerk to:

Advocate.

solemnly affirmed before me this the 17th day of semember. 421

#### DESTRICT : CALCUTTA

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

C.O/C.R. No.\_\_\_\_(W) of 1992
In the matter of :
an application under articl for
Vacated the order.

And

Intthe matter of :

Bijan Chosh. ... Petitioner

-versus-

Union of India & Anr. Respondents

Affidavit-in-opposition by V. P. Bhatia affirmed this day of September, 1993.

MRS. ARATI LUTTA
Advocate,
6, Old Post Office Street,
Calcutta-1.

DISTRICTS CALCUTTA

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPEL ATE SIDE

C.O./C.R. No.6726 (w) of 1993.

IN the matter of :
an application for ad-interim
injunction;

And
In the matter of to
Bijan Ghosh ... petitioner.

- Versus-Union of India & Anr.-Respondents.

AFFIDAVIT-IN-OPPOSITION ON BEHALF OF THE RESPONDENT NO. 1.

I, VoP. Bhatia son of Late Shri M.L. Bhatia aged about 58 years by occupation service, working for gain at New Delhi in the Ministry of Home Affairs do heraby solemnly affirm and day as follows:-

1. I am under Secretary to the Ministry of Home Affirs,
Government of India and am filing the Affidavit-in-Opposition
on behalf oof respondent no. 1 herein and I am acquainted with
the facts and circumastances of the case.

- 2. I have been dupy authorised and competent to make and affirm this affidav t on behalf of Respondent No.1.
- 3. I have reed a copy of an application for adminterim injunction which is supported by the affidavit of Shri Bijan Ghosh affirmed on 2nd July, 1993 ( hereinafter referred toes the

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- 2 -

said petition) and I have understood the contents, meaning and purport thereof.

- 4. That I have been advised to traverse only those allegations and/or statement of paragraphs in the said petition what are relevant and material for deciding the main issue of the instant petition.
- 5. Save except what are matters of records and said what appears therefrom I deny each and every allegations made in the said petition and put the petitioner to strict proof thereof.
- deny and dispute the statement made therein save what are matters of records and save what appears therefrom I state that the decision to confer Bharat Ratna Posthumously on Netaji Subhash Chandra Bose was taken keeping in view his relentless struggle and contribution for the cause of India's freedom. However, in view of some public reaction and criticism and to avoid any unnecessary controversy, the Government decided, notwithstanding the earlier announcement dated 23rd January, 1992, not to take any further action in the matter and to treat the matter as closed.
- 7. With reference to paragraph 3 of the said petition I deny and dispute the statement made therein save what are matters of records and save what appears therefrom I state that since the government has already taken a decision not to proceed any further in the matter, the contentions of the petitioner in para 3 are unfounded.
- 8. With reference to paragraph 4 of the said petition I

deny

deny

sed dispute the statement made therein save what are matter of records. I state that conferment of Bharat Ratna Award on Shri Satyajit Ray has no relevance insefar as conferment of the Award of Bhatat Ratna on Netaji is concerned. With reference to paragraph 4A of the said petition I deny and dispute the statement made therein and save what are matters of zecords and save what appears therefrom. I state that the stay granted by the Madhya Pradesh High Court was vacated by the same High Court on 20th January, 1993, . Further, Government is not aware of any ad-interim order granted by the Kerala High Court. 10. With mederence to paragraph 5 of the said petition I deny 2 and dispute the statement made therein say what are matter of records and save what appears thereform. I state that in the view 0 of the position explained in response to para 3 above. Covernment of India is not contemplating any arrangements to donfer the decoration of Bharat Ratna on Nateji Subhas chandra Bose. 11. With reference to paragraph 6 of the said petition I deny and dispute the statement made therein say what are matters of records and sabe what appears thereform I state that in view of the position stated in the foregoing paragraphs. the petitioner's apprehensions are unfounded. 12. The statements made in paragraphy 1 to 4 are true to my 5 knowledge and those contained in paragraph 6 to 11 are my 5 informations derived from the record. Which information I verily 3 believe to be true and that made in paragraph 5 is my humble submission to thes Hom ble Court.

Prepared in my office

The depenent is known to me

Advocate

Clerk to

me this the/7#day of Sept, 2993.

Commissioner.

DISTRICT: CALCUTTA

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

C.O/C.R No. 6720 (W) of 1992; 3

In the matter of :

An application for ad-interim Injunction

- And -

In the matter of :

Bijan Ghosh

Petitioner.

- Versus -Union of India & Anr.

.. Respondents.

Affidavit-in-Opposition by V. P. Bhatka affirmed this 17th day of September, 1993.

Mrs. Arati Dutta,
Advocate,
6, Old Post Office Street,
Calcutta - 1.

COURT CASE

## MINISTRY OF HOME AFFAIRS (JUDICIAL SECTION)

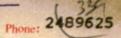
....

In continuation of this Section's U.O.No 23/5/93-Judl dated 13.9.93, please find enclosed herewith a copy of d.o. letter No.15/B/Home/93 dated 10.9.93(in original) from Shri S.Gooptu, Sr. Central Govt. Advocate, Calcutta regarding C.O. No.6720(W)/1993 - Shri Bijan Ghosh versus U.O.I & Orè., for taking necessary action at their end.

( M.L.GUPTA ) DIRECTOR(JUDL)

Shri V.P. Ehatia, Under Secretary (P&V), MHA North Block.
MHA U.O.No.23/\$/93-Judl dated 17 -9-93.

Read in my about him





S. Gooptu

बरिष्ठ केन्द्रीय सरकारी अधिवक्ता Sr. Central Govt. Advocate FAX MESSAGE

2631/55(5)/93

13/9.

भारत सरकार
GOVERNMENT OF INDIA
विधि और न्याय मन्त्रालय
2485215

Ministry of Law & Justice (विधि कार्य विभाग) (Department of Legal Affairs)

शाखा सचिवालय BRANCH SECRETARIAT

4, किरण शंकर राय रोड, कलकत्ता-700 001 4, K. S. ROY ROAD, CALCUTTA-700 001

Dated the 10th Sept. '93

Bear Shri Bose,

١٩

This has reference to the telephonic conversation you had with me yesterday enquiring about the present position of the case bearing C.O No.6720(W) of 1993(Bijan Ghosh Vs. Union of India & Ors.). It appears from our record that Shri S.K.Kundu, Central Govt. Advocate, in charge of the above matter, has already informed the Ministry vide his letter No.15/B/Home/93 dated 7.9.93 addressed to Shri V.F. Bhatia, Under Secretary(P&V) of your Ministry in the North Block, a copy of the same is also being forwarded alongwith the FAX Message. The same may please be forwarded to Shri Arun Sinha, Additional Secretary, Min. of Home Affairs, Jaisalmer House, Mansingh Road, New Delhi with a request that the advice contained in the said letter of Shri Kundu may please be complied with at the earliest.

With regards,

2/3/8

Encl:as above

Yours sincerely.

(S. Gooptu)

Shri S.K.Bose
Joint Secretary,
Min.of Home Affairs,
Jaisalmer House,
Mansingh Road,
New Delhi-110 011

Shirt in the state of the state

S. K. KUNDU CENTRAL GOVT. ADVOCATE

Government of India Ministry of Law & Justice Department of Legal Affairs Branch Secretariat, Calcutta. 4, K.S.Roy Road, Calcutta - 1

SPEED POST

No - 15/B/Home/93

375A, 376A

To Shri V.P.Bhatia. Undersecretary (P&V) Ministry of Home Affairs, North Block, New Delhi 110001

Dear sir.

CO No. 6720(w)/93 Bijan Ghosh -vs-UOI & Ors.

In connection with the above matter and with reference to my earlier letter dt.1st September 1993 I am forwarding herewith five affidavits for finalisation at your end. Those are one in respect of Sunil Krishna Gupta, another in respect of Amiya Nath Bose and three in respect of Bijan Ghosh.

You are requested to take immediate action on them and also to make the affidavits by the Secretary. Ministry of Home Affairs and the Secretary. Ministry of Human Resources explaining delay in filing the affidavits as well as in producting the records. Kindly do the needful and please note that the matters are to appear on 22nd September 1993 for hearing and the department is to file their Affidavity-in-opposition by 17.9.93. Please also note that the Shri R N Das, senior advocate requires a full-fledged consultation in connection with the matter beforehand.

Encl: five draft affidavits.

Yours faithfully.

( S K Kundu )

POST

Copy to: Shri P.C. Kannan. Addl.Legal Adviser.
Ministry of Law Justice & CA. Deptt. of Legal Affairs
Shastri Bhawan. New Delhi 110001 - for information and
giving necessary instructions to the concerned deptt.
doing the needful at an early date.

(skindu)

Ofc,

#### Court Case/Most Immediate/Time Bound

1

V.P. Bhatia, Under Secretary(Pub. & Vig.), Tel.No.3012421.

D.O. No. 1/27/91-Pullic

Dated: 24-9-1993.

Dear Shri Banerjee,

Apropos my telephonic discussion with you this evening and subsequent collection of a copy of writ petition filed by Shri Bijan Ghosh C.O.No.6720(W) of 1993 in the High Court at Calcutta Vs. Union India (impleading Secretary, Ministry of Human Resource Development as one of the respondents) and three orders of Calcutta High Court dated 2nd August, 1st September and 23rd September, 1993, by your Office, I have to request you to have a Affidavit filed in the High Court at Calcutta on the 29th September, 1993, the date fixed for next hearing. In this connection Shri Geeta Ram, Under Secretary, also had a personal discussion with me with particular reference to the term 'Secretary, Ministry of Human Resource Development'. As there is no Secretary as such, the writ petition which was sent as registered A/D would have been received by the Central Registry and if none was concerned it would have been appropriate by the receiving agency to reply back to the petitioner that there is no Secretary by the name Secretary, Ministry of Human Resource Development. However, just to avoid any possibility of any contempt order being issued in the name of Ministry of Human Resource Development, it would be appropriate if the position with reference to the term 'Secretary, Ministry of Human Resource Development' is explained suitably and an Affidavit or a formal communication addressed to the Central Government Counsel, Shri S.K. Kundu at Calcutta is sent by fax message and I may also be, if considered advisable, provided with a reply clarifying the position of the said respondent in the Ministry of Human Resource Development, so that I may carry it with me and produce it before the Court to save an uncalled for situation as far as possible.

2. I shall be grateful if a fax is sent to Shri Kundu at Calcutta without any further loss of time (fax No. has already been given to Shri Geeta Ram). A formal communication addressed to this Ministry may also kindly be sent on account of the reasons stated above.

With regards,

Yours sincerely,

(V.P. Bhatia)

Shri A. Banerjee,
Deputy Secretary(Admn.),
Ministry of Human Resource Development,
Department of Education,
Shastri Bhawan, Room No.119-C,
New Delhi-110001.

S. NO\_ 36 480

COURT CASE

No.A. 44011/35/93-E.I
Government of India
Ministry of Human Resource Development
(Department of Education)

New Delhi, the 25th September 1993

To

The Under Secretary (Pub. & Vig.), Ministry of Home Affairs, North Block New Delhi- 11 00 01.

(Attn: Shri V.P. Bhatia, U.S. (Pub. & Vig.)

Sub: 00 6720 (W) of 1993 - Mr. Bijan Ghosh Vs. Union of India - The High Court of Calcutta - Award of Bharat Ratna to Subhash Chandra Bose - Furnishing of information to Ministry of Home Affairs

\$4. No.2103/93/Public \$3/9/93

I am directed to refer to your d.o. letter
No. 1/27/91-Public dated 24.9.93 on the subject mentioned
above and to say the following:

- (i) The Dak Register maintained by the CR Section of the Department of Education has been checked from January, 1993 but there is no indication therein of any papers relating to this Court Case having been received.
- (ii) No communication in this regard either from the Government Standing Counsel at Calcutta or the Ministry of Home Affairs has been received in this Department. The only communication that we have received is a letter dated 24.9.93 referred to above.
- (iii) In the petition, the Respondent is the "Union of India". However, at page 2 of the petition the Respondent has been shown as "Union of India represented the Chief Secretary, President of India, Rashtrapati Bhawan, New Delhi-1".

"The Secretary, Ministry of Human Resources & Development, New Delhi (alongwith "Secretary, Ministry of Home Affairs, New Delhi) has been shown as Respondent No. 2 in Orders dated 2.8.93,

1.9.93 and 23.9.93 passed by the Hon'ble High Court at Calcutta. It would thus be seen that the term used in the Orders is "Secretary, Ministry of Human Resource & Development." It is clarified that there is no "Secretary, Ministry of Human Resources & Development" at present. There was one "Secretary, Human Resource Development" in the Ministry of Human Resource Development upto 31.3.90. A copy of Office Order No. 200/90-E.I dated 23.3.90 regarding his retirement is attached. Thereafter, no Secretary, HRD has been appointed by the Government of India. Ministry of Human Resource Development has four independent Departments of (i) Education, (ii) Women and Child Development, (iii) Youth Affairs and Sports and (iv) Culture at present, with independent Secretaries of each Department. All these Secretaries are responsible to the Union Minister of Human Resource Development in matters of their respective departments.
Therefore, filing of affidavit by the "Secretary Ministry of Human Resource Development" who is not in existence at the moment, in the Hon'ble High Court of Calcutta does not arise. The contents of the petition have been read with a view to checking as to whether Department of Education is concerned with any of the statements made in the petition. It has been found that there is no statement in the petition which concerns the Department of Education directly. Keeping in view the fact about non-existence of either an Officer of the name of "Secretary, Ministry of Human Resources & Development" or of any matter relating to the Department of Education in the petition, it has not been considered necessary to file an affidavit on behalf of the Secretary, Department of Education when he has not been impleaded directly or indirectly in the case.

2. It is brought to the notice of Ministry of Home Affairs that National Archieves of India under the Department of Culture is the custodian of all the historical records. The Ministry of Home Affairs may like to contact either the Department of Culture or the National Archieves of India in this regard, if considered necessary.

3. In view of the position explained above, it is again reiterated that it would not be proper for the Department of Education to file an affidavit as advised by

1344

the Ministry of Home Affairs in their letter referred to above. However, if considered appropriate, the Ministry of Home Affairs may bring the contents of this letter to the notice of the Central Government Standing Counsel for explaining the position to the Hon'ble High Court of Calcutta. It considered necessary, a copy of this letter may also be faxed to the Central Government Standing Counsel as desired by the Ministry of Home Affairs in their letter referred to above.

Yours faithfully,

( A. BANERJI )
DEPUTY SECRETARY TO THE GOVT. OF INDIA

345 46

No.F.15-478/69-E.I(Vol.III)
Government of India
Ministry of Human Resource Development
(Department of Education)

New Delhi, the 23rd Merch, 1990.

#### OFFICE ORDER NO. 200/90-E.I

On attaining the age of superannuation, Shri J. Veeraraghavan, Secretary, Ministry of Human Resource Development retires from Government service with effect from the afternoon of 31st March, 1990.

Deputy Secretary to the Govt. of India

Shri J. Veeraraghavan, Secretary(Had).

2. PS to MOS(E).

3. PS to Secy(Edn)/Secy(Culture)/Secy(WCD)/
Secy(Arts)/Secy(YA&S).

4. Joint Secretary (Admn.), Department of Culture.

5. Department of Culture (Admn.).

6. Director, Archaeological Survey of India,
Janpath, New Delhi.

7. Caoinet Secretary, Rashtrapati Bhavan, New Delhi.

8. Secretary to P.M., Prime Minister's Office,
South Block, New Delhi.

9. Secretary, Department of Personnel & Training,
North Block, New Delhi.

10. Comptroller and Auditor General of India, New
Delhi.

11. Additional Secretary (Shri Venugopal), Prime
Minister's Office, South Block, New Delhi.

12. Accounts Officer, PAO(Education), New Delhi.

13. Cash Section (2 copies).

14. S&S/VIG/CDN/CR/PU/RO/IWSU.

15. S/Sh.TKG/YS/SSY.

16. Office Order file.

Directorate of Estates, Nirman Bhavan, New
Delhi. Shri Veeraraghavan is not in possession
of Government accommodation.

FROM: HOME, NEW DELHI.

TO : SHRI S.K. KUNDU,

CENTRAL GOVERNMENT ADVOCATE,

BRANCH SECRETARIAT.

MINISTRY OF LAW, JUSTICE & CO. AFFAIRS,

4, K.S. ROY ROAD, CALCUTTA-700001.

NO.1/27/91-PUBLIC

NEW DELHI THE 25TH SEPTEMBER, 1993.

REFERENCE HEARING ON 23RD SEPTEMBER, 1993 OF THE PETITION C.O. NO.6720(W)/93 FILED BY SHRI BIJAN GHOSH VS. UNION OF INDIA & ORDER PASSED BY HIS LORDSHIP SHRI JUSTICE SHYAMAL KUMAR SEN ON 23RD SEPTEMBER READ WITH HIS EARLIER ORDERS OF 2ND AUGUST 1993 AND IST SEPTEMBER 1993 WERE EXPLAINED TO OFFICERS OF MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DEPARTMENT OF EDUCATION) ON 24TH SEPTEMBER 1993(.) ACCORDING TO THAT DEPARTMENT THERE IS NO SECRETARY, MINISTRY OF HUMAN RESOURCE DEVELOPMENT AS SUCH(.) THERE ARE FOUR SECRETARIES IN THE MINISTRY DEALING WITH EDUCATION; YOUTH AFFAIRS SPORTS; WOMEN AND CHILD DEVELOPMENT & CULTURE(.) THEREFORE ANY PAPERS SENT ADDRESSED TO SECRETARY, MINISTRY OF HUMAN RESOURCE DEVELOPMENT EITHER BY SHRI BIJAN GHOSH PETITIONER OR YOU HAVE APPARENTLY MISCARRIED(.) IN THE CIRCUMSTANCES NO AFFIDAVIT AS DIRECTED IN THE ORDERS REFERRED TO ABOVE IS POSSIBLE(.) POSITION MAY BE BROUGHT TO THE NOTICE OF THE COURT AND THE COURT REQUESTED TO DIRECT THE PETITIONER TO INDICATE WHICH SECRETARY HE WANTS TO IMPLEAD(.) KINDLY TAKE SUITABLE ACTION AT YOUR END IMMEDIATELY(.)

HOME, NEW DELHI

(V.P. BHATIA)

UNDER SECRETARY TO THE GOVT. OF INDIA

TEL. NO.3012421.

(V. P. BHATIA) शबर साध्य Under Secretary नुद्ध सन्धालय Ministry of House Atlairs

#### FAX MESSAGE

FROM: HOME, NEW DELHI.

TO: SHRI S.K. KUNDU.

CENTRAL GOVERNMENT ADVOCATE,

BRANCH SECRETARIAT.

MINISTRY OF LAW, JUSTICE & CO. AFFAIRS,

4, K.S. ROY ROAD, CALCUTTA-700001.

(FAX NO.033 2485215)

NO.1/27/91-PUBLIC

NEW DELHI THE 25TH SEPTEMBER, 1993. 27 Hz.

REFERENCE HEARING ON 23RD SEPTEMBER, 1993 OF THE PETITION C.O. NO.6720(W)/93 FILED BY SHRI BIJAN GHOSH VS. UNION OF INDIA 8 ORDER PASSED BY HIS LORDSHIP SHRI JUSTICE SHYAMAL KUMAR SEN ON 23RD SEPTEMBER READ WITH HIS EARLIER ORDERS OF 2ND AUGUST 1993 AND IST SEPTEMBER 1993 WERE EXPLAINED TO OFFICERS OF MINISTRY OF RESOURCE DEVELOPMENT HUMAN (DEPARTMENT OF EDUCATION) ON 24TH SEPTEMBER 1993(.) ACCORDING TO THAT DEPARTMENT THERE IS NO SECRETARY, MINISTRY OF HUMAN RESOURCE DEVELOPMENT AS SUCH(.) THERE ARE FOUR SECRETARIES IN THE MINISTRY DEALING WITH EDUCATION; YOUTH AFFAIRS AND SPORTS: WOMEN AND CHILD DEVELOPMENT & CULTURE(.) ANY PAPERS SENT ADDRESSED TO SECRETARY, MINISTRY OF HUMAN RESOURCE DEVELOPMENT EITHER BY SHRI BIJAN GHOSH PETITIONER OR YOU HAVE APPARENTLY MISCARRIED(.) IN THE CIRCUMSTANCES NO AFFIDAVIT AS DIRECTED IN THE ORDERS REFERRED TO ABOVE IS POSITION MAY BE BROUGHT TO THE NOTICE OF THE POSSIBLE(.) COURT AND THE COURT REQUESTED TO DIRECT THE PETITIONER TO INDICATE WHICH SECRETARY HE WANTS TO IMPLEAD(.) KINDLY TAKE SUITABLE ACTION AT YOUR END IMMEDIATELY(.)

HOME, NEW DELHI

(V.P. BHATIA)

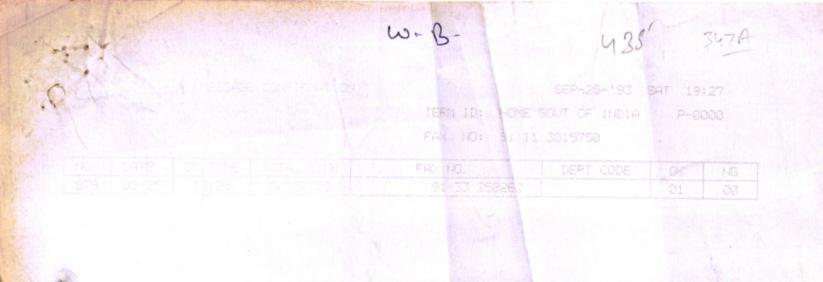
UNDER SECRETARY TO THE GOVT. OF INDIA

TEL. NO.3012421.

(V. P. BHATIA) धवर सचिव

Under Secretary गृह भन्गालय Sinkery of Home Affair

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IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

(Appellate Side)

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C.O. No.6720(W) of 1993

In the matter of:

An application under Article 226 of the Constitution of India.

And

In the matter of:

Amiyanath Bose

Added Respondent

Versus

Union of India & Anr. ... Respondents.

Affidavit in Opposition for and on behalf of Respondent No.1

- I, V.P. Bhatia, son of late Shri M.L. Bhatia aged about 50 years, by occupation, service, working for gain at New Delhi in the Ministry of Home Affairs, residing at 5/602, Lodhi Colony, New Delhi-110003, do hereby solemnly affirm and say as follows:-
- 1. I am Under Secretary in the Ministry of Home Affairs, Government of India and am filing this Affidavit-in-Opposition for and on behalf of respondent No.1 herein and I am acquainted with the facts and circumstances of the case.
- 2. I have been duly authorised and am competent to make and affirm this affidavit on behalf of the respondent No.1.
- 3. I have read a copy of the Affidavit of Shri Amiyanath Bose, added respondent, (hereinafter referred to as the said affidavit) and I have understood the contents, meaning and purport thereof.
- 4. That I have been advised to traverse only those allegations and/or statement of paragraphs in the said affidavit what are relevant and material for deciding the main issue of the instant

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petition.

5. Save except what are matters of records and said what appears therefrom I deny each and every allegations made in the said affidavit and put the deponent to strict proof thereof.

6. With reference to paragraphs 3 & 4 of the said affidavit I deny and dispute, the statements made therein save what are matters of records and save what appears therefrom I state that the Award of Bharat Ratna is conferred for exceptional services towards the advancement of art, literature and science and in recognition of public service of the highest order. The decision to confer Bharat Ratna on Netaji Subhash Chandra Bose was taken keeping in view his relentless and valiant struggle and significant contribution for the casue of India's freedom and the intention of the Government was to accord the highest civilian recognition by way of conferring Bharat Ratna on Netaji, Government have in any way dishonoured him.

As regards the queries of the deponent relating to death of Netaji, it may be stated that the Government accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an aircrash in Taihoku on 18th August, 1945. It was accordingly that in the President's announcement on 23rd January, 1992, the award was regarded as "Posthumous". In this context, I specifically deny the allegation that the decision of the Government to confer Bharat Ratna on Netaji Subhash Chandra Bose posthumously is a crude or clumsy attempt to dishonour Netaji.

with reference to paragraph 29 of the said affidavit I deny and dispute, the statement made therein save what are matters of records and save what appears therefrom I state that as already

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stated, the Government accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an aircrash at Taihoku on 18th August, 1945.

- 8. With reference to paragraph 35 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the contents of this para are not relevant to the main question at issue, namely the death of Netaji in an air-crash which has been accepted as a fact by Government of India. I deny and dispute the allegation that any person in the Government of India have misappropriated any assets of the Azad Hind Government at the time when Jawahar Lal Nehru was the Prime Minister.
- 9. With reference to paragraph 37 of the said affidavit, I deny and dispute, the statements made therein save what are matters of record and save what appears therefrom I state that the statement made by Shri Morarji Desai, the then Prime Minister, in the Lok Sabha on 28.8.78 (not on September 3,1978, as contended by the Petitioner) did not amount to outright rejection of the conclusions arrived at by the Netaji Inquiry Committee and the Khosla Commission. Shri Desai had expressed that reasonable doubts had been cast on the correctness of the conclusions reached earlier, but Shri Morarji Desai also added that no useful purpose would be served by having any further inquiry.

10. With reference to paragraph 38 of the said affidavit, I deny and dispute, the statement made therein. I state that in view of the categorical statement of Shri Morarji Desai to the effect that no useful purpose would be served by having any further inquiry, the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an aircrash at Taihoku

on 18th August, 1945 and duly accepted by the Government, would hold good.

11. With reference to paragraph 44 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the aspect relating to the death of Netaji has been gone into exhaustively both by the Netaji Inquiry Committee and the Khosla Commission reports of which have already been accepted by the Government.

12. With reference to paragraph 45 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that in view of the information contained in the reports of the two Commissions under reference, nothing further is required to be communicated by the Government by way of any additional information.

13. With reference to paragraph 46 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that in view of the various documents submitted in the evidence and considered by the two Commissions and in the the absence of any specific clue to the contrary and Government having already accepted the conclusion that Netaji died in an aircrash on 18th August, 1945, no useful purpose would be served in the matter of death of Netaji by taking up with the concerned authorities of archives of K.G.B.

14. With reference to paragraph 47 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that as already stated, the contention of the petitioner that conferment of Bharat Ratna on Netaji was a deliberate act to insult and dishonour him is his personal opinion. The insinuation against Prime Minister

Sri Narasimha Rao is uncalled for in as much as Sri Narasimha Rao became the Prime Minister of India for the first time in 1991 and therefore he had no occasion to decide earlier as Prime Minister to confer Bharat Ratna on Netaji Subhash Chandra Bose. On the other hand, I may say that those who are raising objection to the conferment of Bharat Ratna to a great leader like Netaji Subhash Chandra Bose are in fact showing disrespect to Netaji Subhash Chandra Bose.

- 15. With regard to the remaining paragraphs of the said affidavit not specifically traversed, I say that the contents of those paragraphs are all matters of record, and save and except what will appear from record I deny and dispute all allegations contained in the said paragraphs as if set out in seriatim and denied.
- 16. The statements made in paragraphs 1 to 4 above are true to my knowledge and those made in paragraphs 6,7,8,9,10,11,12,13 and 14 above are true to my information derived from the record, and the rest are my humble submissions.

DEPONENT

#### VERIFICATION:

I, the abovenamed deponent, do hereby verify the contents of the above affidavit as true and correct to my knowledge based on the official records pertaining to the matter and that no part of it false and nothing material is concealed therefrom.

Verified at New Delhi on 21st September, 1993.

DEPONENT

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 21st September, 1993 at my office at

vas decuted on soloma accounted perfore me which has been raid ever to the deponent who has admitted is no correct.

Netary/Advocate

21/9/97

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GOVERNMENT OF INDIA

विधि और न्याय मन्त्रालय

MINISTRY OF LAW & JUSTICE (विधि कार्य विभाग)

(DEPARTMENT OF LEGAL AFFAIRS)

णाखा सचिवालय BRANCH SECRETARIAT

4, किरण संकर राय रोड, कलकता-700 001 4, K. S. ROY ROAD, CALCUTTA-700 001

20th September 1993.

S. K. Kundu

PEED POST

D. O. No. 15/B/Home/93

Dear Shri Kannan.

This has reference to your D.O. No. 22(2)/93-Judl. dt. Ist September, 1993 in connection with C.O. No. 6720(w)/93 (Bijan Ghosh -vs- Union of India & Ors.). I am to inform you that Shri V.P. Bhatia. Undersecretary (P & V). Ministry of Home Affairs came to Calcutta to have a consultation with the senior counsel and to affirm the affidavits and that he has affirmed the same affidavits from 17th September. 1993. By my earlier letter dt. Ist September, 1993, the order that was passed on Ist September 1993 was intimated and it was also intimated that the Hon ble court has been pleased to direct the Secretary, Min-istry of Home Affairs and the Secretary, Ministry of Human Resources to file affidavits explaining why there is delay in producing the records. As far as I understand the same is not yet ready.

As this is a very touchy matter, it would be better to have the affidavits affirmed in that respect so that if it is necessary the same can be produced at the time of hearing of the matter.

With regards,

Yours sincerely.

(SK Kundu)

Shri P.C. Kannan. Additional Legal Adviser, Ministry of Law Justice & Company Affairs. Department of Legal Affairs, 1741, North 1100k, Shastri Bhawan & New Delhi - 110001.

Copy to : Shri V.P.Bhatia. Undersecretary (P&V). Ministry of Home Affrs. Nort, Block, New Delhi 110001.

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C.O. No.6720 (W) of 1993.

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con unice a the wild order to the

:3.9.93. Delhi, respondent no. 2.

I have also been assured by the learned Advocate on Record of the Union of India that all records as directed by. my previous orders will be produced on the next date of hearing.

Mr. Das, however, sw claims the privilege of this Great that the records will be produced only for perusal of the court.

Petitioner, however, disputes the

. the cold of Let plain copies of the order duly countersigned by the Assistant Registrar. I'm hald havocate on lacerd hat energy retors and their truck state cruck (Court), be handed over to the learned osle sa sibni to notnu ed ro des Advocate for the Union of India as also of this to make the with the petitioner on usual undertaking to whiled copy of the mest of med many beach another same for communication upon respondent . nd was to the pros. 1 and 2 for compliance of the order.

bext? (Vinitarous et retter of la formant son J) incred rot At 10 800 ct. 11 11 11 1111 July 13 cary, of the line wifeles by see of the one cources a forel percet, "or 3df Shyamal Kumar Sen

C.O. No. 6720 (W) of 1993

September 1, 1993.

Bijan Ghosh -VS-Union of India & ors.

Mr. Nigam Chakraborty - For petitioner Mr. Sushanta Kumar Kundu - For Union of Irdia

Secretary, Ministry of Home Affairs, New Delhi, respondent No. 1 and Secretary, Winistry of Human Resources & Development, New Delhi, respondent No. 2 are directed to file two separate, affidavits explaining why the order passed by this Court on 2.8.93 was not carried out by them.

Mr. Kundu, learned Advocate for Union of India prays for time to file affidavit-inopposition.

The prayer is allowed. Such Affidavit-inopposition to be filed by 17.9.93, reply thereto to be filed by 21.9.93.

Let this matter be listed for orders on 22.9.93.

Let plain copies of the order duly countersigned by the Assistant Registrar(Court) be handed over to the learned Advocate for the Union of India as also to the petitioner on usual undertaking to apply for and obtain certified copy of the same, for communication upon respondent Nos. 1 and 2 for compliance of the order. Self- Shyamal Kumer Son

( Shyamal Kumar Sen, J).

S. No. 42 452

#### C.O.NO. 6720(W) OF 1993

Bijan Ghosh and Others

Versus

Union of India and Others

# AFFIDAVIT OF SHRI N.N. VOHRA, SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF HOME AFFAIRS

I, N.N. Vohra, Secretary to the Government of India, in the Ministry of Home Affairs, do hereby solemnly affirm and state as follows:-

- 1. The Hon'ble High Court at Calcutta has, during the hearing of the above-cited matter, namely, C.O. 6720(W) of 1993, ordered the production of all the records pertaining to the declaration of the Award of Bharat Ratna posthumously to Netaji Subhash Chandra Bose.
- 2. I, as the Secretary to the Government of India, in the Ministry of Home Affairs, am the Head of the Department, and I am as such in control of, and in charge of its records. I am filing the present affidavit in my capacity as the Head of the Department.
- 3. I am filing the present affidavit claiming privilege, under Sections 123 and 124 of the Evidence Act, read with Article 74(2) of the Constitution, in respect of the records pertaining to the declaration of the Award of Bharat Ratna posthumously to Netaji Subhash Chandra Bose. I am claiming privilege in the following circumstances.
- 4. The records ordered to be produced by this Hon'ble Court in the above-cited matter are unpublished official records relating to affairs of State, and contain communications made to public officers

in official confidence. The disclosure of the records would cause injury to the public interest. As such, they are protected by Sections 123 and 124 of the Evidence Act. The disclosure of the records would also be violative of the mandatory provisions of Article 74(2) of the Constitution inasmuch as the records contain advice tendered by the Ministers to the President.

- 5. I submit that the records ordered to be produced also belong to a class of documents which it is the practice to keep secret for ensuring the proper functioning of the public service. The records include notes and minutes by officers and Ministers on files, a Note submitted to the Cabinet Committee on Political Affairs and the decision of the said Committee, all of which are classified as Secret.
- 6. I have carefully examined the question as to whether the disclosure of the records would cause injury to public interest, and am bona-fide satisfied that their disclosure would cause injury to public interest, and that public interest would suffer thereby.
- 7. In the circumstances, I withhold permission to produce the said records or to disclose their contents or to give any evidence erived therefrom, and claim privilege under Sections 123 and 124 of the Evidence Act, read with Article 74(2) of the Constitution, specifically in respect of the following contents of the said records:-
- (i) Copies of letters exchanged between the Prime Minister and the President regarding the Award of Bharat Ratna posthumously to Netaji Subhash Chandra Bose, under Article 74(2) of the Constitution;
- (ii) Minutes of the Prime Minister and the Home Minister, on the relevant file, classified as Secret, regarding the said Award, under Article 74(2) of the Constitution;

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- (iii) Notes on the relevant file, classified as Secret, by senior officers of the Government of India including the Home Secretary and the Cabinet Secretary, regarding the said Award, under Sections 123 and 124 of the Evidence Act;
- (iv) Communications made in official confidence to the officers of the Ministry of Home Affairs, regarding the said Award, under Sections 123 and 124 of the Evidence Act;
- (v) Correspondence between the Ministry of Home Affairs and the wife and daughter of Netaji Subhash Chandra Bose, through the Indian Embassy in Vienna, regarding the said Award, under Sections 123 and 124 of the Evidence Act; and
- Affairs (submitted in January, 1991) on the subject of the dispute regarding the ashes of Netaji Subhash Chandra Bose, and also the controversy about whether he is dead or alive, and the decision of the Cabinet Committee on Political Affairs thereon, under Article 74(2) of the Constitution and Sections 123 and 124 of the Evidence Act.
- 8. However, I submit that I have no objection to the records in respect of which privilege has been claimed being produced for perusal by this Hon'ble Court for satisfying itself about the bonafides and genuineness of the plea of privilege.

(N.N. VOHRA)

DEPONENT

## VERIFICATION

I, N.N. Vohra, the deponent above-named, do hereby verify

the contents of the above affidavit, and state that the same are true to the best of my knowledge, based on the records mentioned in para 7 above, and nothing material has been concealed.

Verified at New Delhi on this the 27th day of September, 1993.

4. . 4

. 27/9/93 (N.N. VOHRA)

DEPONENT

SWORN BEFORE ME at Mew Delli at G. A.M. at rems

Certified that the forego my Statement was deciared on sol an affirmation before me which has been read over to the deponent who has admitted is as

correct,

S.No.43 456

#### District Calcutta Di

## IN THE HIGH COURT AT CALCUTTA Constitutional Writ Jurisdiction (Appellate Side)

C.O. No.6720(W) of 1993.

In the matter of:

An application under Article 226 of the Constitution of India.

And

In the matter of: I

Bijan Ghosh &

B

Petitioner

Others.

C 327

and Added Respondents

Versus

Union of India & Ant.

Respondents.

Affidavit in Opposition for and on behalf of Respondent No.1

I, V.P. Bhatia, son of late Shri M.L. Bhatia aged about 50 years, by occupation, service, working for gain at New Delhi in the Ministry of Home Affairs, residing at 5/602, Lodhi Colony, New Delhi-110003, do hereby sblemnly affirm and say as follows:-

1. I am Under Secretary in the Ministry of Home Affairs, Government of India and am filing this Affidavit-in-Opposition for and on behalf of respondent No.1 herein and I am acquainted with the facts and circumstances of the case.

I have been duly authorised and am competent to make and 2. firm this Affidavit on behalf of the Respondent No.1.

I have read a copy of the Affidavit of Shri Sunil Krishna pta, added respondent (hereinafter referred to as the said Affidavit) and I have understood the contents, meaning and purport thereof.

That I have been advised to traverse only those allegations 4. and/or statement of paragraphs in the said Affidavit what are relevant



- 2 -

6.

and material for deciding the main issue of the instant petition. Save and except what are matters of record and save and except what have been specifically admitted herein I deny and dispute all allegations and contentions in the remaining paragraphs.

5. Save and except what are matters of record and said what appears therefrom I deny each and every allegation made in the said Affidavit and put the deponent to strict proof thereof.

I deny and dispute, the statements made therein save what are matters

With reference to paragraphs 7 and 8 of the said Affidavit

- of records and save what appears therefrom I state that the statements made therein are incorrect and are denied because nothing contained in the Constitution debars the Government from extending recognition to individual acts of outstanding merit by way of orders and decorations', in the sphere of social work, art, science and literature, to acts of gallantry in the battlefield and any other field of service and to acts of conspicuous devotion to duty in general. A Press Note was issued by the Government of India on April 17, 1968, making it abundantly clear that the use of Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letterheads, invitation cards, posters, books etc. is against the Scheme of the Government as these awards are not titles and their use along with the names of individuals showing them as titles is contrary to the spirit of the Constitution which has abolished titles. A copy of the said ote is annexed herewith. It was also emphasised in this Press Note that no civilian award should be affixed or prefixed with the name of the awardee to give an appearance of a title. It is further denied that the decision to confer Bharat Ratna on Netaji Subhash Chandra Bose was a dishonour to him, since this decision was taken by the Government keeping in view the relentless and valiant struggle and contribution made by him for the cause of India's freedom.
- Affidavit I deny and dispute, the statements made therein save what are matters of records and save what appears therefrom I state that it is partly a reproduction of certain portions from the publication "Bangladeshar Itihas-Vol.IV" and partly his own feelings about Netaji



and as such need no comments except that award of Bharat Ratna announced for Netaji is not a dishonour to the great leader.

With rereference to paragraph 24 of the said Affidavit I deny and dispute, the statements made therein save what are matter of records and save what appears therefrom I state that on 7th August, 1991, in connection with a Special Mention by Shri Pramod Mahajan, M.P., Rajya Sabha, Members present had urged the Government to confer Bharat Ratna posthumously on Maulana Abul Kalam Azad and Shri Subhash Chandra Bose. Keeping in view the sentiments of the Hon'ble Members and in recognition of their public service of the highest order, the names of Maulana Azad and Netaji were approved by the President of India for the award of Bharat Ratna and the same were announced on 23rd January, 1992. Hence, it is wrong to say that the people of India did not accept the conferment of Bharat Ratna on Netaji. However, to avoid any unnecessary controversy, the Government decided notwithstanding the earlier announcement made on 23rd January, 1992, not to take any further action in the matter and to treat the same as closed. Government had already accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an aircrash at Taihoku on

With reference to paragraph 27 of the said Affidavit, I deny and dispute, the statements made therein save what are matters of feareds and save what appears therefrom I state that as regards a high level probe by an Expert Committee alleged to have been ordered by the then Prime Minister, Shri Chandrasekhar, no records are available in this Ministry.

Bth August, 1945.

10. With reference to paragraph 28 of the said Affidavit I deny and dispute, the statements made therein save what are matters of

13.

records and save what appears therefrom I state that it is unfounded in view of the fact that the Government have already accepted the reports of Netaji Inquiry Committee and the Khosla Commission about the death of Netaji in an aircrash on 18th August, 1945.

361-

- 11. With reference to paragraphs 39 to 41 of the said Affidavit I deny and dispute, the statements made therein save what are matters of records and save what appears therefrom I state that these are irrelvent in view of the acceptance by the Government of India of the findings of the Netaji Inquiry Committee and of the Khosla Commission.
- 12. With reference to paragraph 42 of the said Affidavit I deny and dispute, the statements made therein save what are matters of records and save what appears therefrom, I state that it is not relevant in view of the fact that Government have already accepted that Netaji died in an aircrash at Taihoku on 18th August, 1945.

With reference to paragraph 43 of the said Affidavit I deny

- and dispute, the statements made therein save what are matters of records and save what appears therefrom, I state that the statement was made by Shri Morarji Desai, the then Prime Minister, in Lok Sabha on 28-8-1978 and not on 3-9-1978 as claimed. This statement by Shri Desai did not amount to outright rejection of the conclusions arrived at by the Netaji Inquiry Committee and the Khosla Commission. Besides, at the end of his statement, Shri Desai also added that no useful purpose would be served by having any further inquiry.
- 14. With reference to paragraph 44 of the said Affidavit, I deny and dispute, the statements made therein save what are matters of records and save what appears therefrom, I state that in view of the stand of the Government not to pursue any further the matter of award of Bharat Ratna on Netaji Subhash Chandra Bose the petition itself needs to be rejected outright.

- 5 -

15. The statements made in paragraphs 1,2,3 & 4 above are true to my knowledge and those contained in paragraphs 6,7,8,9,10, 11, 12, 13 & 14 are true to my information derived from the record and the rest are my humble submissions before this Hon'ble Court.

DEPONENT 27.9.1993

### **VERIFICATION:**

I, the abovenamed deponent, do hereby verify the contents of the above Affidavit as true and correct to my knowledge based on the official records pertaining to the matter and that no part of it is false and nothing material is concealed therefrom.

Verified at New Delhi on 27th September, 1993.

PBhale 27.5.1953

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 27th September, 1993, at my office at

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before me which has been read over to the deponent who has admitted is as correct.

27 SEP 1993

ANNEXURE

GOVERNMENT OF INDIA
PRESS INFORMATION BUREAU

## PRESS NOTE

The attention of the Union Home Ministry has been drawn to the practice of using Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letter heads, invitation cards, posters, books, etc. The awards are not titles and their use along with the names of individuals is contrary to the spirit of the Constitution, which has abolished titles. It is, therefore, desirable that no Civilian Award should be affixed or prefixed with the name of the awardee to give an appearance of a title.

Union Ministry of Home Affairs
New Delhi, Chaitra 28, 1890/April 17, 1968

(Article 18 of the Constitution of India says:

(1) "No titles, not being a military or academic distinctions, shall be conferred by the State: (2) No citizen of India shall accept any title from foreign State: (3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State....").

the deponent who has admitted is as

27 SEP 1993

5. No. 44 462

## C.O. No. 6720(W) of 1993

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Civil Appellate Side

Bijan Ghesh ..... petitiener Vs. Union of India & Anr. ..... Respondents

September 29, 1993. Mr. Bijan Ghesh ... Petitiener (In persen)

Mr. K.T.S. Tulsi, Additional Solicitor General of India,

Mr. Rajiv Maltra, Mr. R.N.Das,

Mr. Susanta Kundu, Mrs. Arati Dutta .... for the Respondent No. 1 and 2

Mr. Amiye Nath Bese ... fer Respendent No. 3 (In person)

Mr. Partha Sengupta, Mr. Arunava Ghesh,

Mr. Anant Show ... for the Respondent No. 4

Mr. Nigam Chakraberty, Miss Arundhuti Mukherjee ... for the Respondent No. 5

Secretary, Ministry of Home Affairs, New Delhi and the Secretary, Education in the Mix Human Resources Development. New Delhi will file separate affidavits as per order dated September 1, 1993 passed by this Court. Such affidavits will be filed by 23rd Nevember, 1993. Learned Advecate Mr. Bijan Ghesh, who is appearing in person, prays for leave to make necessary prayer in the petition the through a supplementary affidavit. Such leave is also given to Mr. Amiyo Nath Bose, who is also appearing in person, and other added respondents. Since it i stated by the learned Additional Solicitor General that Professor Samar Guha who was a member of the Parliament at the relevant time, made a statement withdrawing the metien asking for appointment of a Third Enquiry Commission to enquire into the cause of Death of Netaji Subhas Chandra Bose, Professor Samar Guha is also added as a party respondent in this writ petition. The petitioner will make an application for amendment of the Writ petition and for necessary addition.

Let copies of the Khosla Commission Notification and/or Notification awarding Bharat Rum & Ratna be supplied texthexpetitionexxexxixxi

I hay

order at 29.993 Conta

- 2 -

to the petitioner by the Union of India within a week. The copy of the Press communique issued by the Rashtra Bhavan will be supplied to the petitioner within a week and also to the added parties.

Such application for amendment and supplementary affidavit will be filed within one week after the vacation i.e. 23.11.93. The matter will appear in the list on 6th December, 1993. It is made clear that if there is another notification awarding Bharat Ratna, copy will be supplied to the petitioner and also to the added parties within a week after the vacation.

Additional Solicitor General to day in Court. But for the purpose of drafting reply to the supplementary affidavit and the amendment application that may be made, the records have been retained by them and they will produce the records on the next date of hearing i.e. on 6th December, 1993.

The respondents will file their affidavit disputing the claim of privelege of holding the records. The petitioner and the added respondents are directed to serve copies of their respective affidavits to Professor Samar Guha, the added respondent in the meantime.

Let plain copies of this order counter-signed by the Assistant Registrar (Court) be given to the learn Advocates for both parties.

(Shyamal Kumar Sen, J.)

Sd/- Shyamal Kumar Sen.

Parl My 30993

## METROPOLITAN

Death still a mystery, says govt

# KGB files may solve Netaji case

BY OUR SPECIAL CORRESPONDENT

Calcutta, Sept. 29: The KGE archives in Moscow may provide a clue to Netaji's disappearance in Stalin's Russia, Mr Amiyanath Bose, nephew of the freedom fighter, argued in Calcutta High Court today.

Mr Bose, who was deposing in the case concerning conferment of Bharat Ratna on Netaji, wondered how the nation's highest award could be posthumously bestowed on Netaji when relevant facts concerning his demise were yet to be disclosed.

Disputing the Khosla Commission's inference that Subhas Chandra Bose had died in a plane crash in Taihoku, he said Dr Radha Binode Pal who was a

member of the War Trial Commis- tary had said he could not dission had told Netaji's elder brother, Sarat Bose, that the American intelligence agency was of the opinion Netaji had reached Manchuria.

Mr Bose argued that though a number of KGB files were destroyed after the Soviet government went out of power, the archives could still provide some evidence of Netaji's last days in Stalin's Russia.

The additional solicitor general of the Union government, Mr K.T.S. Tulsi, who had flown into the city for this case said the Centre's home secretary had filed an affidavit claiming "privilege" for certain documents.

In the affidavit, the home secre-

close the advice given to the President prior to the declaration of Bharat Ratna. Praising Netaji's role in the freedom struggle, Mr Tulsi agreed that Netaji's death was still shrouded in controver-

At the same time, he argued that the onus of unfolding the mystery of Netaji's disappearance was on those who were challenging the conclusion of the Khosla Commission's report.

The Indian Evidence Act clearly stated that if a man was not seen or even heard of as seen for a period of seven years, it could be assumed that he was not alive. He said even Mr Samar Guha, former MP, who had raised the

demand in Parliament that a third commission be appointed later withdrew the motion.

Justice Shyamal Sen after listening to both sides ruled that the secretary of education, under the ministry of human resources, would file another affidavit giving reasons for its delay in submission of their affidavit.

He said Mr Samar Guha, the former MP, who has been referred to by Mr Tulsi in his arugment be added as a party in the case. He directed the Centre to produce the Khosla Commission notification and the notification relating to posthumous Bharat Ratna award within a week. The next hearing of the case has been fixed on December 6.

## Niranjan Shah smuggled out Rs 63 crores, IPC told

ROM OUR CORRESPONDENT

New Delhi, Sept 29: Officials of the Enforcement Directorate oday informed the Joint Parliamentary Committee (JPC) that lawala racketeer Niranjan Shah and siphoned out Rs 63 crores from the country and investigations were on to find out the sums hannelised for narcoticsrafficking.

In his deposition before the committee, the enforcement lirector, Mr Javed Chaudhary, aid his agency had managed to mearth the names of 48 people who had business dealings with thah, of which 15 were Indians.

Shah had reportedly sent Rs 2

Dissidents resent formation of Rajasthan election committee

# Arjun fights isolation from poll campaign

FROM OUR SPECIAL CORRESPONDENT

New Delhi, Sept. 29; Fearing marginalisation in the Assembly polls, the Arjun Singh camp today launched a covert counter-offensive by attacking the composition of the Rajasthan Pradesh election commission (PEC).

The Rajasthan PEC, like such committees constituted in the other three erstwhile BJP-ruled states, will recommend party candidates for the Assembly polls.

One of the main reasons for the attack was the exclusion of Mr Shiv Charan Mathur, MP, from

ed from active membership of the party in the wake of the Surajkund session. Mr Singh himself did not raise this issue in the meeting of senior leaders called by Mr Rao yesterday to finalise the party's election campaign.

The four rebels, Mr M.L. Fotedar, Mr K.N. Singh, Mr Natwar Singh and Mrs Sheila Dixit, who issued a statement against the constitution of the election panel in Rajasthan, chose as a tactical measure not to address themselves to this matter. Instead, they took objection to the inclusion of Mr Digvijay Singh, former home minister in the Bhairon Singh Shekhawat government,

an individual who had spent his life in the Swatantra Party and Janata Party and was home minister in the Shekhawat government when the Babri Masjid was demolished."

Mr Digvijay Singh was taken into the party to strengthen its Rajput component to face the challenge from Mr Shekhawat, the state's tallest Rajput leader.

A key factor which prompted Mr Arjun Singh to orchestrate the attack on the Rajasthan PEC was the senior Jat leader, Mr Nathu Ram Mirdha's objection to the inclusion of Mr Digvijay Singh in the PEC as a special invitee. Mr Mirdha, however.

## Netaji's nephew challenges death report

By Our Legal Reporter

## - CONTROVERSY

Calcutta High Court has directed the Union of India to produce copies of the Khosla Commission notification

Is Netaji Subhas Chandra Bose alive or dead? This question, agitating the minds of millions of people in India, was the central theme of the arguments advanced by Netaji's nephew, Mr Amiya Nath Bose, and the Additional Solicitor-General of India, Mr K. T. S. Tulsi, before Mr Justice Shyamal Kumar Sen of Calcutta High Court on Wednesday.

Mr Bose said the U.S. Intelligence report had

come to a definite finding that there was no air crash at Taihoku in August, 1945. It had also concluded that Netaji had safely arrived in Manchuria some time in August, 1945. "This and other facts make it abundantly clear that Netaji did not die in any air crash at Taihoku",

In December, 1945, Alfred Wagg, war correspondent of the Chicago Tribune, told Mr Bose's father, the late Sarat Chandra Bose, that he had accompanied the Intelligence party that had been sent from General MacArthur's Headquarters to Taihoku to inquire into the alleged air crash there in August, 1945. Mr Wagg said there was no air crash at Taihoku in August,

1945, as announced by the Domei news agency.

If the news broadcast from Japan that Netaji
had died in a hospital at Taihoku was correct
there should have been a death certificate. Mr Bose said no such certificate had been produced either before the Shah Nawaz Committee

or the Khosla Commission.

Mr Bose submitted that one of the close confidents of Gandhiji, Khurshed Naoroji, had written a letter to Louis Fischer presumably on behalf of Gandhiji. He had annexed a photo-copy of that letter to his affidavit. It conclusively proved that Netaji was alive in July, 1946.
"This letter completely demolishes the story of the alleged air crash and the reports of the Shah Nawaz Committee and the Khosla Commis-sion", he said, adding: "Netaji was in Russia in July, 1946".

Those who worked with Netaji in those days had stated that he used a round wrist watch. Mr Bose took a wrist watch out of his pocket and said: "Here is a watch which is rectangular. I produce this watch for inspection by the court". The rectangular watch had been handed over to the Bose family by Jawaharlal Nehru, who claimed that it was found on Netaji's wrist

after the air crash.

Mr Bose said the Central Government's decision to confer Bharat Ratna on Netaji posthumously was a "crude and clumsy" attempt to ously was a "crude and clumsy" attempt to dishonour him. The Government had not disclosed why it had decided to confer Bharat Ratna on Netaji posthumously. The Government had neither disclosed any material or document to prove when, where and how Netaji died. The people of India had a right to detailed information about the alleged death of Netaji, he said.

In his affidavit, Mr Bose alleged that it was Jawaharlal Nehru, the then Prime Minister, who had obstructed a full inquiry into the who had obstructed a full inquiry into the alleged air crash in which Netaji had allegedly died. He asked the present Prime Minister, Mr P. V. Narasimha Rao, to disclose how, when and where Netaji died after July, 1946 because it was he who had decided to confer Bharat Ratna on Netaji "posthumously".

The Additional Solicitor-General of India, who appeared for the Union of India, the appeared for the Union of India,

who appeared for the Union of India, filed the affidavit of the Home Secretary of the Union Government who, he said, claimed privilege for certain documents. The Home Secretary said he could not disclose the advice given to the President in regard to the declaration of the

President in regard to the declaration of the posthumous award of Bharat Ratna for Netaji. Recalling Netaji's glorious contribution to India's freedom atruggle Mr Tulsi said that by deciding to confer Bharat Ratna on Netaji posthumously the Union Government had acted according to law. Section 108 of the Indian Evidence Act says that when the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive the burden of proving that he he had been alive the burden of proving that he is alive is shifted to the person who affirms it.

The Additional Solicitor-General submitted that the controversy over Netaji's death still continued. But the Government decided to confer Bharat Ratna on Netaji in deference to the wishes of the people of India. He said: "Since 1945 nobody has heard about Netaji. The fact remains that nobody claims to have heard about him'

In 1971, Mr Samar Guha made a statement that Netaji was alive. He had taken to sanyas. He said Netaji would appear but he did not. Mr Guha moved a motion in Parliament, demanding a third commission of inquiry into the alleged death of Netaji. But some time later he himself sought the permission of the House to withdraw his motion.

Mr Tulsi said there was legal provision for cancellation of such awards. The President acted according to law in announcing the award. The Union Government would not

withdraw the award.

withdraw the award.

Mr Justice Sen passed an order saying that the Secretary to the Education Department under the Ministry of Human Resources Development should file an affidavit giving reasons for the delay in filing the affidavit on behalf of the Union of India. Mr Samar Guha should be added as a party to this case. The Union of India was directed to produce copies of the Khosla Commission notification. Copies of the Press communique issued by Rashtrapati Bhavan announcing the award should be sup-plied to the petitioners and the added parties. Mr Bijon Ghosh, the writ petitioner who had

challenged the posthumous award to Netaji, appeared in person. Mr Nigam Chakravarty with Miss Arundhati Mukherjee appeared for some added parties. Mr Tulsi appeared with Mr Rajiv Malhotra, Mr R. N. Das and Mr Susanta

The matter will come up for hearing on December 6.



# International Airports Authority of India.

#### TENDER NOTICE

Executive Engineer (Electrical), Calcutta Project Office, Calcutta-52 invites on behalf of Chairman, IAAI sealed item rate tender for the following work from the specialised firms.

The Tender will be received up to 2-30 p.m. on the date mentioned below in the office of Dy. General Manager (Electronics), IAAI: HQRS. Operational Building, Gurgaon Road, New Delhi-110 037 and will be opened on the same day at 3-00 p.m. Only such specialised firms who have successfully installed and commissioned the Supply, Installation, Testing & commissioning.of Fire Alarm system to the value of Rs 50 lacs in a single such work are eligible to participate in the tender.

(1)Name of work: Supply, Installation, Testing & Commissioning of Fire Alarm system at Calcutta Airport. (2) Estimated Cost: Rs. 105.8 lacs. (3) Earnest Money: Rs. 50,000. (4) Time allowed: 6 months. (5) Cost of Tender document: Rs. 150 (Non-refundable). (6) Last date of receipt of application for issue of tenders: 1-11-93. (7) Last date of Sale: 5-11-93. (8) Date of Opening: 12-11-93.

Tender documents can be obtained from the office of the Executive Engineer (Electrical), Calcutta Project Office, Calcutta-52 on any working day between 11-00 a.m. and 4-00 p.m. on production of valid Income-Tax clearance certificate and certificate of past

experience.

**EXECUTIVE ENGINEER (ELECT.)** 



## HINDUSTAN PETROLEUM CORPORATION LIMITED

6, CHURCH LANE, CALCUTTA- 700 00 1, 2nd FLOOR (A GOVERNMENT OF INDIA ENTERPRISE)

## TENDER NOTICE

Sealed tenders are invited in prescribed form from established manufacturers for supply of following HDPE containers at our Calcutta Installations as below: Tender No.: As below dated 23.9.93. Due date 28.10.93 at 3.00 PM. Earnest Money deposit: Rs. 20,000/- against each tender.

111	THE RESERVE AND ADDRESS OF THE PARTY OF THE	DOMESTIC STATE OF THE PARTY OF	TOURSEL FACT	EMP Indamen
1.	5 Ltr HDPE	19.00 Lakhs	HPC/T-371/PGB/93	Rs. 20,000/-
2.	3 Ltr HDPE	1.20 Lakhs	-00-	
3.	1 Ltr HDPE	26.93 Lakhs	HPC/T-372/PGB/93	Rs. 20,000/-
4.0	500 ml HDPE	3.20 Lakhs	-00-	de grote at
5.	1 Kg. Grease HDPE	2.70 Lakhs	HPC/T-373/PGB/93	Rs. 20,000/-
6.	1/2 Kg. Grease HDPE	1.80 Lakhs	-00-	timized.
7.	500 ml. Super 2T	1.30 Lakhs	HPC/T-374/PGB/93	Rs. 20,000/-
	250 ml Super 2T	230 Lakhe	-M-	

Tender documents will be available from the office of

Due Date: 28.10 93.

## The Dy. Manager Purchase M/s. Hindustan Petroleum Corporation Limited, 6, Church Lane, Calcutta-700 001.

against payment of non-refundable amount of Rs. 100/- each by cash/crossed demand draft in favour of M/s. Hindustan Petroleum Corporation Ltd., on any working day between 10.00 am and 4.30 pm. Cheque/Money order,

Postal Order etc. shall not be accepted.
Small Scale units registered with National Small Industries Corporation (NSIC) for the above mentioned items can obtain tender documents free of cost against submitting the copy of valid Registration Certificate.

No responsibility will be taken for postal delay or non-delivery/non-receipt

of tender documents

Tenders will be opened on the due date after the above closing time in the presence of attending tenderers

Tender received after the due date and stipulated time due to any reason whatsoever, including Postal delays, will not be considered.

Calcutta

SR. MANAGER (O&E) EAST ZONE



## NORTH EAST

NIRJULI : ITANAC NOTICE INVITING

Last date of receipt of tenders against stands extended upto 31.10.93. T onwards till 4.11.93. All other terms and



## BOKARO S BOKARO STEEL

Tender Notice No : Cl

Sealed tenders are invited from in materials on "As is Where is" & "N

Description of material : Brass S Qty: 25 MT.

Lot no. & location : Stores.

Period contract: 15 (Fifteen) day Earnest money : Rs. 1 (One) La

Tender documents may be obtain two hundred only) per set (plus) R by Post by way of Postal Order dra Plant, payable at Bokaro Steel C 15.10.93 on all working days ben Saturdays when it can be had up t Chief Materials Manager I/C (Co Bokaro Steel City, Bokaro Steel Pla

loss/delay of tender documents in Tender documents duly filled in s Chief Materials Manager I/C (Co Bokaro Steel City up to 11.00 A immediately thereafter in presenc who may wish to be present.

Tenders (including postal tende earnest money and/or received aft be rejected. No telex/telegraphic of

SAIL, Bokaro Steel Plant reserve in part or reject any or all the to whatsoever.

Dy. Chief

Registered Office : Ispat Bhav

#### TENDER CALL LOCAL COM

The Government of India has re ent Association vide credit No. 1 ment Association vide credit No. 1
U.S.I. special drawing right (S.D.F.
National Water Management Project
this credit will be applied to eligible
tion of works as detailed below. Th
each work registered with the Govt.
Contractors registered with the Orty
Govt. undertaking in equivalent clas
2. Sealed price bids are invited for
struction and completion of the water
submit bids for any or all of the work
works are to be completed within th
3. Intending eligible bidders may of
documents at the office of the Execu
undersigned office on any working
a.m. and 5-00 p.m.
4. The bidding documents will be m

4. The bidding documents will be re and from the office of the Executive I 9-93 to 1-11-93 during working he accompanied by a non-refundable towards the cost in the shape of ca payable at State Bank of India, Bank Bidding documents requested by m post on payment of extra amount of responsible for the postal delay, if a receipt of the same.Additional sets payment of a non-refundable fee equ

set per work as above.

5. All bids must be accompanied to payable at State Bank of India, Bank



### ADDITIONAL SOLICITOR-GENERAL INDIA

Supreme Court of India, New Delhi. September 30, 1993

Dear Mr. Iyer,

Re: C.O. No.6720(W)/1993, Bijan Ghosh Vs. Union of India.

Hearing in the above case before Justice Shyamal Sen went off quite well yesterday. The Judge clearly told the petitioner's counsel that unless the notification accepting Khosla Committee report was challenged and set aside, the presumption under the Evidence Act cannot be displaced. Several lawyers made streneous efforts to incite the emmotions of those present and the judge, but the judge remained unmoved. Eventually, the petitioner sought leave of the court to challenge the validity of the notification by which the Khosla Committee's report was accepted by the Government of India. A copy of the notification has already been placed by me on the record of the Court.

However, the court has desired that an additional affidavit should be filed by the Home Secretary explaining the delay in taking steps to comply orders of the Court on 3 earlier dates. A draft affidavit on the lines of lack of communication, giving specific references to the correspondence exchanged, may be drafted and the same may be got settled from me, if so desired. A# copy of the notification and/or Press Communique of Rashtrapati Bhavan awarding Bharat Ratna to Netaji Subhash Chandra Bose is also required to be produced before the Court. The same can be annexed to the affidavit.

The court has also desired that Secretary, Education in the Ministry of Human Resource Development may file an affidavit explaining the reasons for non compliance of orders of the High Court. The best reason that can be mentioned is that that there has been no occupant of the post of Secretary, Human Resource Development since 1990. However, a draft affidavit may be got settled from me. Photo copies of the news report of today's Calcutta newspapers are enclosed for your information.

My fee bill (in triplicate) is also enclosed for early settlement.

With best wishes,

Mr. M. Venkateswara Iyer, Joint Secretary, Ministry of Home Affairs, Government of India,

NEW DELHIAM

Yours sincerely,

The Statemen 469 September 30, 1993 37

# Netaji's nephew challenges death report

By Our Legal Reporter

## CONTROVERSY

Calcutta High Court has directed the Union of India to produce copies of the Khosla Commission notification

IS Netaji Subhas Chandra Bose aiive or dead? This question, agitating the minds of millions of people in India, was the central theme of the arguments advanced by Netaji's nephew, Mr Amiya Nath Bose, and the Additional Solicitor-General of India, Mr K. T. S. Tulsi, before Mr Justice Shyamal Kumar Sen of Calcutta High Court on Wednesday.

Mr Bose said the U.S. Intelligence report had come to a definite finding that there was no air crach at Taihoku in August, 1945. It had also concluded that Netaji had safely arrived in Manchuria some time in August, 1945. "This and other facts make it abundantly clear that Netaji did not die in any air crash at Taihoku", he said.

In December, 1945, Alfred Wagg, war correspondent of the Chicago Tribune, told Mr Bose's father, the late Sarat Chandra Bose, that he had accompanied the Intelligence party that had been sent from General MacArthur's Headquarters to Taihoku to inquire into the alleged air crash there in August, 1945. Mr Wagg said there was no air crash at Taihoku in August, 1945, as announced by the Domei news agency.

If the news broadcast from Japan that Netaji had died in a hospital at Taihoku was correct there should have been a death certificate. Mr Bose said no such certificate had been produced either before the Shah Nawaz Committee or the Khosla Commission.

Mr Bose submitted that one of the close confidents of Gandhiji, Khurshed Naoroji, had written a letter to Louis Fischer presumably on behalf of Gandhiji. He had annexed a photocopy of that letter to his affidavit. It conclusively proved that Netaji was alive in July, 1946. "This letter completely demolishes the story of the alleged air crash and the reports of the Shah Nawaz Committee and the Khosla Commission", he said, adding: "Netaji was in Russia in July, 1946".

Those who worked with Netaji in those days had stated that he used a round wrist watch. Mr Bose took a wrist watch out of his pocket and said: "Here is a watch which is rectangular. I produce this watch for inspection by the court". The rectangular watch had been handed over to the Bose family by Jawaharlal Nehru, who claimed that it was found on Netaji's wrist after the air crash.

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Mr Bose said the Central Government's decision to confer Bharat Ratna on Netaji posthumously was a "crude and clumsy" attempt to dishonour him. The Government had not disclosed why it had decided to confer Bharat Ratna on Netaji posthumously. The Government had neither disclosed any material or document to prove when, where and how Netaji died. The people of India had a right to

detailed information about the alleged death of

Netaji, he said.

In his affidavit, Mr Bose alleged that it was Jawaharlal Nehru, the then Prime Minister who had obstructed a full inquiry into the alleged air crash in which Netaji had alleged died. He asked the present Prime Minister, N. P. V. Narasimha Rao, to disclose how, who and where Netaji died after July, 1946 because it was he who had decided to confer Bhar Ratna on Netaji "posthumously".

The Additional Solicitor-General of India

The Additional Solicitor-General of Indi who appeared for the Union of India, filed the affidavit of the Home Secretary of the Union Government who, he said, claimed privilege for certain documents. The Home Secretary sate he could not disclose the advice given to the President in regard to the declaration of the posthumous award of Bharat Ratna for Netaj

Recalling Netaji's glorious contribution to I dia's freedom atruggle Mr Tulsi said that I deciding to confer Bharat Ratna on Netaji poshumously the Union Government had acteriously according to law. Section 108 of the India Evidence Act says that when the question whether a man is alive or dead, and it is prove that he has not been heard of for seven years I those who would naturally have heard of him he had been alive the burden of proving that is alive is shifted to the person who affirms

The Additional Solicitor-General submitted that the controversy over Netaji's death structured. But the Government decided to cut fer Bharat Ratna on Netaji in deference to the wishes of the people of India. He said: "Sin 1945 nobody has heard about Netaji. The feremains that nobody claims to have hear about him".

In 1971, Mr Samar Guha made a stateme that Netaji was alive. He had taken to sany. He said Netaji would appear but he did not. Such a moved a motion in Parliament, demanding a third commission of inquiry into the alleged death of Netaji. But some time later himself sought the permission of the House withdraw his motion.

Mr Tulsi said there was legal provision cancellation of such awards. The Preside acted according to law in announcing taward. The Union Government would years withdraw the award.

Mr Justice Sen passed an order saying the Secretary to the Education Department under the Ministry of Human Resources I velopment should file an affidavit giving reasons for the delay in filing the affidavit behalf of the Union of India. Mr Samar Gushould be added as a party to this case. Tunion of India was directed to produce cop of the Khosla Commission notification. Cop of the Press communique issued by Rashtrap Bhavan announcing the award should be suplied to the petitioners and the added parties.

plied to the petitioners and the added partie
Mr Bijon Ghosh, the writ petitioner who be
challenged the posthumous award to Note
appeared in person. Mr Nigam Chakrava
with Miss Arundhati Mukherjee appeared
some added parties. Mr Tulsi appeared with
Rajiv Malhotra, Mr R. N. Das and Mr Susar

The matter will come up for hearing on I cember 6.

## Death still a mystery, says govt

# KGB files may solve Netaji case

BY OUR SPECIAL CORRESPONDENT

Calcutta, Sept. 29: The KGE archives in Moscow may provide a clue to Netaji's disappearance in Stalin's Russia, Mr Amiyanath Bose, nephew of the freedom fighter, argued in Calcutta High Court today.

Mr Bose, who was deposing in the case concerning conferment of Bharat Ratna on Netaji, wondered how the nation's highest award could be posthumously bestowed on Netaji when relevant facts concerning his demise were yet to be disclosed.

Disputing the Khosla Commission's inference that Subhas Chandra Bose had died in a plane crash in Taihoku, he said Dr Radha Binode Pal who was a

member of the War Trial Commission had told Netaji's elder brother, Sarat Bose, that the American intelligence agency was of the opinion Netaji had reached Manchuria.

Mr Bose argued that though a number of KGB files were destroyed after the Soviet government went out of power, the archives could still provide some evidence of Netaji's last days in Stalin's Russia.

The additional solicitor general of the Union government, Mr K.T.S. Tulsi, who had flown into the city for this case said the Centre's home secretary had filed an affidavit claiming "privilege" for certain documents.

In the affidavit, the home secre-

tary had said he could not disclose the advice given to the President prior to the declaration of Bharat Ratna. Praising Netaji's role in the freedom struggle, Mr Tulsi agreed that Netaji's death was still shrouded in controversy.

At the same time, he argued that the onus of unfolding the mystery of Netaji's disappearance was on those who were challenging the conclusion of the Khosla Commission's report.

The Indian Evidence Act clearly stated that if a man was not seen or even heard of as seen for a period of seven years, it could be assumed that he was not alive. He said even Mr Samar Guha, former MP, who had raised the

demand in Parliament that a third commission be appointed later withdrew the motion.

Justice Shyamal Sen after listening to both sides ruled that the secretary of education, under the ministry of human resources would file another affidavit giving reasons for its delay in submission of their affidavit.

He said Mr Samar Guha, the former MP, who has been refered to by Mr Tulsi in his arugment be added as a party in the case. He directed the Centre to produce the Khosla Commission notification and the notification relaing to posthumous Bharat Rationaward within a week. The necessary of the case has been freed on December 6.

\_Tel:386587(0) 386204(R)

## No. ASG/ 451 A

MEMO OF FEE OF SHRI K.T.S. AVLSI. ADDL. SOLICITOR GENERAL OF INDIA, OF INDIA (AB-8 PURANA QILA ROAD, DELD)

Date of

Date of

Matter

Amount

Hrg./Conference/ Memo Settlement.

30.9.1993 29.9.1993

In the High Court of at Calcutta

C.O. No. 6720 (W)/1993

Bijan Ghosh

Vs.

Union of India & Ors.

Outstation fee charged @ Rs.2000/- for 2 days. Left for Calcutta on 28.9.93 and returned Delhi on 30.9.93. Appearance on 29.9.1993 .... Rs.4000.00

(Rupees Four thousand only)

Pre-Receipte

(K.T.S. TULS)

Addl. Solicitor General

Bill is in order and amount is sanctioned

Sign mrs of Officer)

It is certified that no previous bill has been submitted in r/o this claim and no payment has so far been made. It is also certified that amount of fee will be shown in the annual Income-tax Return and hence no income-tax is deducted in this bill.

## FORWARDED TO:

Mr.M. Venkateswara Iyer, (K.T.S. TULSI)

Jt. Secy.

Addl. Solicitor General of India

Supreme Court Building, New Delhi

(Res: AB-8 Purana Qila Road, New (K.T.S. TULSI) Delhi)

Tel:38@587(0) 386204(R)

## No. ASG/ 451 A

MEMO OF FEE OF SHRI K. J. . . TULSI. ADDL. SOLICITOR GENERAL OF INDIA. OF INDIA (AB-8 PURANA QILA ROAD,

Date of

Date of

Matter

Amount

Hrg./Conference/ Settlement.

30.9.1993 29.9.1993

In the High Court of at Coloutta

C.O. No. 6720 (W)/1993

Bijan Ghosh

Pre-Receipted.

Vs.

Union of India & Ors.

(K.T.S. TULSE) Addl. Solicitor General Outstation fee charged @ Rg. 2000/- for 2 days. Left for Calcutta on 28.9.93 and returned Delhi on 30.9.93. Appearance on 29.9.1993 ..... Rs .4000.00

(Ruces Four thousand only)

Bill is in order and amount is sanctioned

(Signature of Officer)

It is certified that no previous bill has been submitted in r/o this claim and no payment has so far been made. It is also certified that amount of fee will be shown in the annual Income-tax Return and hence no income-tax is deducted in this bill.

## PORWARDED TO:

(K.T.S. TULSI) Mr. M. Venkateswara Iyer Addl. Solicitor General of India Jt. Secy.

Supreme Court Building, New Delhi (Res: AB-8 Purana Qila Road, New Delhi)

\_:388587(0) 386204(R)

No. ASG/\_\_\_\_A\_\_\_\_3

MEMO OF FEE OF SPRI .... NOSI, ADDL. SOLICITOR GETERAL OF INDIA. OF INDIA (AB-8 PURANA QILA ROAD, LL)

Date of

Date of

Matter

Amount

Hrg./Conference/ Settlement.

30.9.1993 29.9.1993

In the High Court of at Coloutte

C.G. No. 6750 (1)/1993

Bajahı Gresit

Vs.

Union of India & Ors.

Outstation fee charged @ 3s.2000/- for 2 days. Left for Calcutta on 28.9.93 and returned Delhi on 30.9.93. Appearance on 22.9.1933 ..... 4000.00

(thoses Four thousand only)

Pre-Receipted.

(K.T.S. TULS) Addl. Solicitor General

Bill is in order and amount is sanctioned

(Signature of Officer)

It is certified that no previous bill has been submitted in r/o this claim and no payment has so far been made. It is also certified that amount of fee will be shown in the annual Income-tax Return and hence no income-tax is deducted in this bill.

OR LOE CO:

(K.T.S. TULSI) Mr. M. Venketeswara Tyeridl. Solicitor General of India Jt. Secy. Supreme Court Building, New Delhi Wo Home Affairs, (Res: AB-8 Purana Qila Road, New Delhi)

S.N. 46 474

## By Speed Post/Court Case

New Delhi, the 6th October, 1993.

To (As Per List attached) 6 OCT 1993 Th. Byan Thosh. 6661 1000.

Subject:-C.O. No.6720(W) of 1993 - Bijan Ghosh & others Vs. Union of India & others.

Sir,

स्तालर |Sid

STO

The following papers are sent to you in accordance with the order passed by Justice Shyamal Kumar Sen of the Calcutta High Court on 29th September, 1993 in the above cited case:-

- (i) A copy of the Notification setting up the Khosla Commission;
- (ii) A copy of the Memorandum of Action Taken (on the Report of the Khosla Commission) laid before Parliament; and
- (iii) A copy of the Press Communique issued by Rashtrapati Bhavan regarding award of Bharat Ratna to Netaji.
- 2. No Notification was issued regarding award of Bharat Ratna to Netaji as, after the initial announcement, Government decided not to proceed any further in the matter.
- Kindly acknowledge receipt.

Yours faithfully,

जारी किया \$ \$U/E D किए/डॉइ. अप्रीयादी मार/डॉइ. अप्रीयादी मार तथा प्रति & I ( L.B. Sinate ) Director.



ग्रसाघारण

## EXTRAORDINARY

भाग II-- खण्ड 3-- उपखण्ड (ii)

PART II-Section 3-Sub-section (ii)

प्राधिकार से अकाशित

## PUBLISHED BY AUTHORITY

248

नई दिल्ली, शनिबार, जनाई 11, 1970, त्राषाढ 20, 1892

248 ]

NEW DELHI, SATURDAY, JULY 11, 1970'ASADHA 20, 1892

इस भाग में भिन्न पष्ठ संख्या दी जाती है जिससे कि यह ग्रलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

#### MINISTRY OF HOME AFFAIRS

#### NOTIFICATION

New Delhi, the 11th July 1970

8.0. 2375.—Whereas the Shah Nawar Khan Committee appointed by the Government of India in April. 1956, to inquire into and to report to the Government India on the circumstances concerning the departure of Netaji Subhas Chandra from Bangkok about the 16th August. 1945, his reported death as a result of sircraft accident, and subsequent developments connected therewith, had come the conclusion that Netaji Subhas Chandra Bose met his death in an air crash;

And whereas there is a widespread feeling amongst the public that the problem finding the truth about Netaji's death still remains:

And whereas there has been a persistent demand for a further inquiry into matter;

and whereas the Central Government 's o' opinion that it is necessary to soint a Commission of Inquiry for the purpose of making an inquiry into a laite matter of public importance, namely, the disappearance of Metaji Subhas bodra Bose in 1945;

PART

1070

Now, therefore, in exercise of the powers conferred by section 3 of the missions of Inquiry Act. 1952 (60 of 1952), the Central Government hereby appear a Commission of Inquiry consisting of Shri G. D. Khosli Retired Chief June of the Punjab High Court, as sole member.

- 2. The Commission shall inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandre Base in 1945 and the subsequence developments connected therewith and make the report to the Central Government. The Commission will be expected to complete its inquiry and make report by the 31st December, 1970.
- 3. The Central Government is of opinion that, having regard to the nature the inquiry to be made and other circumstances of the case, all the provision of sob-section (2), sub-section (3), sub-section (4) and sub-section (5) of section of the Commissions of Inquire Act. 1952 (66 of 1952) should be made applicate to the said Commission and the Central Government hereby directs under section (1) of the said section 5 that all the previsions aforesaid anall apply the said Commission.

[No. 25/14/70-Poll.71]

T. C. A. SRINIVASAVARADAN, Jt. San

गृह मंत्रालय

ग्रधिमूचना

नई दिल्ली, 11 जुलाई, 1970

एस॰ भ्रो॰ 2375 .- यतः शाहनवाजखां समिति जो नेताजी सुमाप चन्द्र बोस के 16 भगवा 1945 के लगभग बैंकाक से प्रस्थान, एक विमान दुर्घटना के परिणामस्वरूप उनकी प्रतिवेदित मुख सम्बन्धित परिस्थितियों तथा उसके सम्बन्ध में तत्पश्चात सामने आने वाली बातो के विषय में करने ग्रीर भारत सरकार को उसकी रिपोर्ट देने के लिए भारत सरकार हारा ग्रप्रैल, 1956 में निवर की गई थी, इस परिणाम पर पहुंची थी कि नेताजी सुभाष चन्द्र वोस की मृत्यु एक विमान-घटना हुई थी ;

भीर यतः जनता में यह भावना व्याप्त है कि नेताजी की मृत्यु सम्बन्धी सच्चाई का पता सपा की समस्या श्रभी तक बनी हुई है ;

श्रीर यत: निरन्तर यह मांग रही है कि इस विषय में श्रागे जांच की जाए ;

भीर यतः केन्द्रीय सरकार की ाय है कि निश्चय रूप से लोक महत्व के इस मामले में भ्रष्टि 1945 में देता जी सुभाष चन्द्र वोस के गायब हो जाने के विषय में, जांच करने के प्रयोजन के लिए एक जांच ग्रायोग नियक्त करना ग्रावश्यक है ;

ग्रतः ग्रव, जांच ग्रायोग ग्रिधिनियम, 1952 (1952 का 60) की धारा उद्वारा प्रदत्त मक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतदहारा एक जांच ग्रायोग नियुक्त करती है जिसके एकमाइ सदस्य पंजाव उच्च न्यायालय के सेवानिवृत्त मुख्य न्यायाधीम, श्री गोपाल दास खोमला होंगे।

2. ग्रायोग, 1945 में नेताजी मुभाप चन्द्र वोस के गायब हो जाने से सम्बन्धित सभी तथ्यो भीर परिन्थितियों तथा उसके सम्बन्ध में तत्परचात सामने भ्राने वाली वातों के विपय में जांच करेगा श्रीर केन्द्रीय सरकार की अपनी रिपोर्ट देना । आयोग से यह आशा की जाएगी कि वह 31 रिनम्बर् 1970 तक अपनी जांच पूरी करले और अपनी रिपोर्ट दे दे।

3. केन्द्रीय सरकार की राय है कि की जाने वाली जांच ग्रीर मामले की ग्रन्य परिस्थितियों कि स्वरूप को प्र्यान में रखते हुए, ग्रायोग ग्रधिनियम, 1952 (1952 का 60) की धारा 5 की उप-कार (2), उपधारा (3), उपधारा (4), ग्रीर उपधारा (5) के सभी उपबन्ध उक्त ग्रायोग को किए जाने चाहिएं तथा केन्द्रीय सरकार उक्त धारा 5 की उपधारा (1) के ग्रधीन एतद्द्वारा निदेश कि उपयुक्त सभी उपबन्ध उक्त ग्रायोग को लागू होंगे।

[संख्या 25/14/ **\***0-पोल II.]

टी॰ मी॰ ए॰ श्रीनिवासवर्द्धन, संयुक्त सचिव ।

MEMORANDUM OF ACTION TAKEN ON THE REPORT OF THE COMMISSION OF INQUIRY REGARDING THE FACTS AND CIRCUMSTANCES RELATING TO THE DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE.

By Government of India Notification No.25/14/70-Poll.III
dated 11th July,1970 Shri G.D.Khosla, retired Chief Justice of the
Punjab High Court, was appointed under the Commissions of Inquiry
Act, 1952 to inquire into the facts and circumstances relating to
the disappearance of Netaji Subhas Chandra Bose in 1945 and the
subsequent developments connected therewith?

- The Commission completed the inquiry and submitted its report on June 30, 1974.
- The Government have examined the report and have decided to accept the findings of the Commission that Notaji Subhas Chandra Bose died in an air-crash on the 18th August 1945, at Taiheku airfield in Taiwan.
- under sub-section (4) of Section 3 of the Commissions of Inquity
  Act, 1952.

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## NOT TO BE PUBLISHED OR BROADCAST BEFORE THE MORNING OF 23RD JANUARY, 1992.

#### PRESS COMMUNIQUE

#### BHARAT RATNA

The President is pleased to confer the award of Bharat Ratna Posthumously on Shri Subhash Chandra Bose.

Rashtrapati Bhavan, New Delhi. January 22, 1992.

NOT TO BE PUBLISHED OR BROADCAST BEFORE THE MORNING
OF 23RD JANUARY, 1992.

Mhy daysor ( 3311) 92

## List of Addresses

- Shri Bijan Ghosh, s/o Shri Binoy Krishna Ghosh, Advocate on Record, High Court at Calcutta, Bar Association, Room No.11, Calcutta.
- 2. Shri Bihan Ghosh, s/o Shri Binoy Krishna Ghosh B-172, BE College, Howrah-3

By Regd. Post.

- Shri Sunil Krishna Gupta (Alias Sunil Gupta) s/o late Shri Tripura Krishan Gupta, 38, Vidya Sagar Street, Calcutta-700009.
- Shri Amiya Nath Bose,
   s/o late Shri Sarat Chandra Bose,
   226/4-A, Netaji Subhas Chandra Bose Road,
   Calcutta-700040.
- 5. Dr. Susanta Kumar Mitra, s/o late Shri Neel Mani Mitra, 25-A, Bagh Bazar Street, Calcutta-700006.
- Shri Samar Guha, Ex-M.P. (Lok Sabha), 8/2, Central Park, Calcutta-700032

### By Speed Post/Court Case

F.No.1/27/91-Public
Government of India/ Bharat Sarkar
Ministry of Home Affairs/ Grih Mantralaya

New Delhi, the

October, 1993.

To

(1) Shri Bijan Ghosh Advocate on Record,
S/o Shri Binoy Krishna Ghosh,
High Court at Calcutta,
Bar Association, Room No.11, Calcutta.

#### Repeat:

Shri Bijan Ghosh, S/o Shri Binoy Krishna Ghosh, B-172, BE College, Howrah-3.

- Shri Sunil Krishna Gupta (Alias Sunil Gupta), S/o late Shri Tripura Krishna Gupta, 38, Vidya Sagar Street, Calcutta-700009.
- Shri Amiya Nath Bose, s/o late Shri Sarat Chandra Bose, 226/4-A, Netaji Subhas Chandra Bose Road, Calcutta-700040.
- Dr. Susanta Kumar Mitra, S/o late Shri Neel Mani Mitra, 25-A, Bagh Bazar Street, Calcutta-700006.
- Shri Samar Guha, Ex-M.P.(Lok Sabha), 8/2, Central Park, Calcutta-700032.

Subject:-C.O. No.6720(W) of 1993 - Bijan Ghosh & others Vs. Union of India and others.

Sir,

The case, referred to above, was heard in the Court of Hearth Shri Justice Shyamal Kumar Sen on 29th September, 1993. The Hon'ble Court in its order, consequent on the said hearing on 29th September, 1993 (Copy signed by the Assistant Registrar (Court) made available to the Central Government Counsel on 30th September, 1993) inter alia directed as under:

If the case, referred to above, was heard in the Court of Hearth September, 1993. The Hon'ble Court in its order, consequent on the said hearing on 29th September, 1993 (Copy signed by the Assistant Registrar (Court) made available to the Central Government Counsel on 30th September, 1993) inter alia directed as under:

(i) Copies of the Khosla Commission Notification, and/or with the Court in its order, consequent on the said hearing on 29th September, 1993. The Hon'ble Court in its order, consequent on the said hearing on 29th September, 1993. The Hon'ble Court in its order, consequent on the said hearing on 29th September, 1993. The Hon'ble Court in its order, consequent on the said hearing on 29th September, 1993. The Hon'ble Court in its order, consequent on the said hearing on 29th September, 1993. The Hon'ble Court in its order, consequent on the said hearing on 29th September, 1993. The Hon'ble Court in its order, consequent on the said hearing on 29th September, 1993. The Hon'ble Court in its order, consequent on the said hearing on 29th September, 1993. The Hon'ble Court in its order, consequent on the said hearing on 29th September, 1993. The Hon'ble Court in its order, consequent on the said hearing on 29th September, 1993. The Hon'ble Court in its order, consequent on the said hearing on 29th September, 1993. The Hon'ble Court in its order, consequent on 29th September, 1993. The Hon'ble Court in its order, consequent on 29th September, 1993. The Hon'ble Court in its order, consequent on 29th September, 1993. The Hon'ble Court in its order, consequent in its order, consequent in its order, consequent in its order, consequent in its order, conseque

(ii) Klofy of we Memoranthing of Action Cakery (all y) laid 38 before Parliament ? - and Notification awarding Bharat Ratna to be supplied to the Petitioners within a week Rashtrapati Bhavan also to be supplied to the Petitioners and the added Respondents within a week. In compliance with the directive of the Hon'ble Court, I am directed to send herewith a copy of the Notification appointing the Khosla Commission as also a copy of the Press @ achop taken o The regions of the Communique issued by the Rashtrapati Bhavan. As regards Commission & Brides, reference to Notification awarding Bharat Ratna in the year, it is a gopy of the Press Communque respectfully clarified that no Notification awarding Bharat Ratna to sospiel day the Rpsdtrapati Bhusan Netaji Subhas Chandra Bose, has been issued. n who enclosed Yours faithfully, dated 2ml tettember, 1974 madrened (L.B. Sinate) Director. Here is no profife careon was island regarding award of Rharat Ratura to Netajizar, after we untial auneuncement Communeux decided not to praceed an farther in the maller If Kindly acknowledge receift

S.N.47 485

## By Speed Post/Court Case

F.No.1/27/91-Public Government of India/ Bharat Sarkar Ministry of Home Affairs / Grih Mantralaya \*\*\*\*\*\*\*\*

New Delhi, the 6th October, 1993.

To

(As per list attached)

Subject:-C.O. No.6720(W) of 1993 - Bijan Ghosh & others Vs. Union of India & others.

Sir,

The following papers are sent to you in accordance with the order passed by Justice Shyamal Kumar Sen of the Calcutta High Court on 29th September, 1993 in the above cited case:-

- A copy of the Notification setting up the Khosla Commission: (i)
- (ii) A copy of the Memorandum of Action Taken (on the Report of the Khosla Commission) laid before Parliament; and
- (iii) A copy of the Press Communique issued by Rashtrapati Bhavan regarding award of Bharat Ratna to Netaji.
- No Notification was issued regarding award of Bharat Ratna to Netaji as, after the initial announcement, Government decided not to proceed any further in the matter.
- 3. Kindly acknowledge receipt.

Yours faithfully,

Sd/-

( L.B. Sinate ) Director.

No.1/27/91-Public

New Delhi, the 6th October, 1993.

BY SPEED POST
GODY, alongwith a copy each of the three enclosures, is forwarded
to Shri S.K. Kundu, Central Govt. Advocate, Branch Secretariat, Ministry
of Law, Justice & Company Affairs, 4, K.S. Roy Road, Calcutta-700001,
for information and necessary action. It is requested that Shri R.N. Das, Special Panel Counsel may also be kept informed.

PBhale ( V.P. Bhatia )

Under Secretary to the Govt. of India.

D.O.No.1/27/91-Public

L.B.SINATE DIRECTOR TEL-3016439

13th October, 1993.

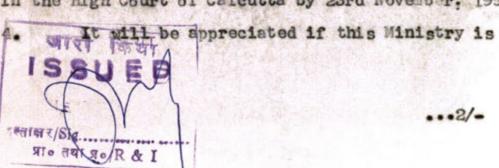
R OCT 1993

Dear Shri Banerjee,

Kindly refer to the d.o. letter of even number dated 24th September, 1993, from Shri V.P. Bhatia, Under Secret ry (Pub & Vig) in connection with a writ petition filed by Shri Bajan Ghosh, C.O.No.6720(W) of 1993 in the High Court of Calcutta Versus Union of India (impleading Secretary, Ministry of Human Resource Development as one of the Respondents), and sending therewith three orders of Calcutta High Court dated 2nd August. 1st September and 23rd September, 1993. In response, it was point dout in your letter dated 25th September, 1993, that there is no 'Secretary, Ministry of Human Resource Development' at present. It was further pointed out that there was one 'Secretary, Ministry of Human Resource Development' in he Ministry of Human Resource Development upto 31.3.1990 and thereafer no Secretary Human Resource Development has been appointed by the Government of India. This position was intimated to the Hon'ble High Court of Calcutta through our Central Government Counsel, Shri S.K. Kundu.

This matter came up for hearing on 29th September. 1993. A copy of the Order passed by the Hon'ble Court on 29th September, 1993, is enclosed for your ready reference. It would be seen therefrom that the Court has ordered both Secretary, Ministry of Home Affairs, New Delhi and the Secretary (Education), in the Ministry of Human Resource Development, New Delhi, to file two separate Affidavits as per Order dated September 1, 1993, passed by that Court. Such Affidavits are to be filed by 23rd November, 1993.

In view of the Court's latest Order directing Secretary (Education) in the Human Resource Development Ministry to file an affidavit as a Respondent, I shall be grateful if you will initiate urgent follow up action to have the Affidavit on behalf of Secretary (Education) prepared and get it settled by the Law Officer and thereafter , formally file it in the High Court of Calcutta by 23rd November, 1993.



...2/-

kept apprised of the action taken pursuant to the Court's order of 29th September, 1993.

With regards,

Yours sincerely,

( L.B. SINATE )

Shri A. Banerjee,
Deputy Facretary (Admn),
Ministry of Human Resource Development,
Department of E.ucation,
Shastri Bhavan,
Room No.119-C,
New Delhi-110001.

Most Immediate (383)

Director.

D.O.No.1/27/91-Public

Dated the October, 1993.

Dear Shri Banerjee,

- b-3411 600

Kindly refer to d.o. letter of even number dated 24th September, 1993, from Shri V.P. Bhatia, Under Secretary(Pub. & Vig.), in connection with a writ petition filed by Shri Bijan Ghosh, C.O.No.6720(W) of 1993 in the High Court of Calcutta Versus Union of India (impleading Secretary, Ministry of Human Resource Development as one of the Respondents), and therewith three orders of Calcutta High Court dated 2nd August, 1st September and 23rd September, 1993. In response, it was in your letter dated 25 th September, 1993. pointed out / that there is no 'Secretary, Ministry of Human Resource Development' at present. It was further pointed out that there was one 'Secretary, Ministry of Human Resource Development' in the Ministry of Human Resource Development upto 31-3-1990 and thereafter no Secretary Human Resource Development has been appointed by the Government of India. This position was projected to the Hon'ble High Court of Calcutta through our Central Government Counsel, Shri S.K. Kundu.

(8) p 346-47

Ap 360-67

p. 355

2. This matter came up for hearing on 29th September,

1993. The copy of the Order passed by the Hon'ble Court on

29th September, 1993, is enclosed for your ready reference. It

would be seen therefrom that the Court had ordered both

Secretary, Ministry of Home Affairs, New Delhi and the

Secretary(Education), in the Ministry of Human Resource

Development, New Delhi, to file two separate Affidavits as per

Order dated September 1, 1993, passed by that Court. Such

Affidavits will be filed by 23rd November, 1993. Latest

3. In view of the latest davelopment directing

Secretary(Education) in the Human Resource Development Ministry to the analysis of the latest davelopment Ministry to the analysis.

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- 2 -

as a Respondent, I shall be grateful if you initiate urgent follow up action to have the Affidavit on behalf of Secretary(Education) prepared and if necessary got settled from Additional Solicitor General, Shri K.T.S. Tulsi and thereafter, formally filed in the High Court of Calcutta by 23rd November, 1993.

4. It will be appreciated if this Ministry is kept apprised of the action taken pursuant to the Court's order of 29th September, 1993.

With regards,

Yours sincerely,

(L.B. Sinate)

Shri A. Banerjee,
Deputy Secretary(Admn.),
Ministry of Human Resource Development,
Department of Education,
Shastri Bhavan, Room No.119-C,
New Delhi-110001.

S. No. 49 (Recept) OUT TODAY
COURT CASE

No.23/3/93-Judl. Government of India/Bharat Sarkar Ministry of Home Affairs/Grin Mantralaya

Jaisalmer House, Mansingh Road, New Delhi-11, the 20th Oct., 1993.

MOST IMMEDIATE

## OFFICE MEMORANDUM

Subject: - Orders of the High Court of Calcutta in C.O. NO.6720 (W) of 1993 - Bijon Ghosh Vs. Union of India & Others.

Further to this Section's U.O. of even number dated 17.9.1993 sent to Shri V.P. Bhatia, Under Secretary (P & V), MHA, a letter dated 23.9.1993 (in original) from Shri Bijon Ghosh, Advocate, Calcutta is sent herewith for taking necessary action.

> ( M.L. GUPTA DIRECTOR (JUDL)

Encl.: As above.

Joint Secretary (Admn), (Shri M. Venkateswara Iyer),

2266/93-Public 22.10.93

bijan ghosh
ADVOCATE
CALCUTTA

BAR ASSOCIATION ROOM NO II

30 SEP 1993

CHAMBER 22A CHAKRABERIA LANE CALCUTTA 700 020

Date : 23.9.93

To

1. The Secretary

Ministry of Home Affairs

South Block

New Delhi.

2. The Secretary
Ministry of Human Resources & Development
Swastri Bhavan
New Delhi.

In Re: C.O.No.6720 (W) of 1993
Bijon Ghosh
-VsUnion of India & Ors.

047042 93

Dear Sir,

Enclosed, please find the plain copies of the orders dated 1.9.93 and 23.9.93 respectively which are self explanetory.

This is for your information and compliance.

Thank you.

Yours faithfully,

Advocate - in person

C.C.to: Mr. S. Kundu Advocate for Union of India.

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Judl 3079/13

2549783 70/13

C.O. No. 6720 (W) of 1993

September 1, 1993. Bijan Ghosh
-vsUnion of India & Ors.

Mr. Nigam Chakraborty - For petitioner
Mr. Sushanta Kumar Kundu - For Union of India

Secretary, Ministry of Home Affairs, New Delhi, respondent No. 1 and Secretary, Ministry of Human Resources & Development, New Delhi, respondent No. 2 are directed to file two separate affidavits explaining why the order passed by this Court on 2.8.93 was not carried out by them.

Mr. Kundu, learned Advocate for Union of India prays for time to file affidavit-in-opposition.

The prayer is allowed. Such Affidavit-inopposition to be filed by 17.9.93, reply thereto to be filed by 21.9.93.

Let this matter be listed for orders on 22.9.93.

Let plain copies of the order duly countersigned by the Assistant Registrar(Court) be handed over to the learned Advocate for the Union of India as also to the petitioner on usual undertaking to apply for and obtain certified copy of the same, for communication upon respondent Nos. 1 and 2 for compliance of the order.

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Plant Multiple 23,993

( Shyamal Kumar Sen, J).

### C.O. No. 6720 (W) of 1993.

23.9.93. Mr. Bijan Ghosh -(In person,)

Mr. Partha Sengupta - For Added respondent.

Mr. Sunil Gupta, Mr. Amiya Nath Bose -for the added respondent.

Mr.R.N. Des, Mr. Susanta Kundu Mrs. Arati Dutta - For the Union of India.

The order passed by me on September 1, 1993 has not been carried out. It appears that the Advocate on Record of the Union of India could not communicate the said order to the concerned Secretaries who were directed to file affidavits.

The said Advocate on Record has assured this Court that the order passed on September 1, 1993 will be carried out and he prays for extension of time to file such affidavit. An directed by order dated asptember 2, 1995 and passes for another date.

The matter is accordingly fixed for hearing on 29th September, 1993 when it is expected that the order passed on September 1, 1993 will be carried out by filing two separate affidavits by Secretary, Ministry of Home Affairs, New Delhi, respondent No. 1 and 5 cretary, Ministry of Human Resources 5 Development, New

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C.O. No.6720 (W) of 1993.

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( Shyamal Kumar Sen, J).

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Delhi, respondent no. 2.

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I have also been assured by the learned Advocate on Record of the Union of India that all records as directed by my previous orders will be produced on the next date of hearing.

privilege of the court that the records will be produced only for perusal of the court.

Petitioner, however, disputes the same.

countersigned by the Assistant Registrar,
(Court), he handed over to the learned
Advocate for the Union of India as also
to the petitioner on usual undertaking to
apply for and obtain certified copy of
the same for communication upon respondent
Nos. 1 and 2 for compliance of the order.

3df Shyamal Kumor Sen.

COURT CASE

TIME BOUND

GEETA RAM Under Secretary

Tele.No. 383432

D.O.NO.A.44011/35/93-E.I Government of India Ministry of Human Resource Development Department of Education Shastri Bhavan ......

New Delhi, the 19th November, 1993.

Dear Shri Sinate,

Please refer to your D.O. letter No.1/27/91-Public dated the 18th October, 1993 regarding Writ Petition filed by Shri Bijan Ghosh - CO No.6720(W) of 1993 - in the High Court of Calcutta Versus Union of India.

- Our file on the subject was referred to Ministry of Law, Justice & C.A. for vetting the draft proposed to be filed in the High Court of Calcutta. Ministry of Law, Justice & C.A. advised that we may get the draft vetted from their Branch Secretariat in Calcutta. Accordingly, we deputed Shri Ravindra Kumar, Desk Officer, to Calcutta in this regard. A copy of the affidavit on behalf of Secretary, Deptt. of Education, Govt. of India, duly sworn and filed is attached. It may be seen from the draft that we have prayed for deleting the name of Secretary, Deptt. of Education from the list of Respondents, as Deptt. of Education is not concerned with the case.
- As desired, I am also enclosing a photocopy of Deptt. of Legal Affairs' Notification containing designations of officers who can sign judicial papers. As decided by Law Officers at Calcutta, an affidavit has been signed by Desk Officer, who is competent to sign the papers, according to the Notification attached. Law Officers at Calcutta have advised that there is no need of deputing any officer of this Department on the date of next hearing. However, I would request you to please advise the officer, who will be going to Calcutta, to look after the interest of this Department.

With regards,

Yours sincerely,

(GEETA RAM)

Encl. : As above.

Shri L.B. Sinate,

Director,

Ministry of Home Affairs,

North Block,

NEW DELHI.

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THE ADM

# THE HIGH COURT AT CALCUTTA Constitutional Writ Jurisdiction Appellate Side

C.O/C.R. No.6720 (W) of 1993.

Subject matter relating to:

Under Group - IX, Head 
of the Classification List;

and

In the matter of :Bijan Ghosh.
....Petitioner

- Versus -

The Union of India

3875-

# AFFIDAVIT ON BEHALF OF SECRETARY, DEPARTMENT OF EDUCATION GOVERNMENT OF INDIA, NEW DELHI.

- I, Ravindra Kumar, Son of Shri Rameshwar Dayal, aged about 34 years, by Occupation Service, working for gain at New Delhi, in the Department of Education, residing at 56-B, Pocket A -13, Kalkaji Extension, New Delhi, do hereby solemnly affirm and say as follows:
- I am Desk Officer in the Department of Education, Ministry of Human Resource Development and I am filing this Affidavit-in-Opposition for and on behalf of Secretary, Department of Education and I am acquainted with the facts and circumstances of the case.
- 2. I have been duly authorised and competent to make and affirm this Affidavit on behalf of the Secretary, Department of Education.
- 3. I have read a copy of the Writ Petition C.O. No.6720 (W) of 1993 Bijan Ghosh and Others. Versus Union of India and Anr. and I have understood the contents, meaning and purport thereof.
- 4. That the Ministry of Human Resource Development consists of four Departments namely Department of Education, Department of Culture, Department of Youth Affairs & Sports and the Department of Women & Child Development. The Four Departments are independent in their functioning and the Education Secretary is responsible for the Department of Education only.

then difficult out bullions to all about they, all they that

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That the Department of Education do not hold any records in connection with the investigation of death of Netaji Subhash Chandra Bose and as such no such records can be produced by the Secretary, Department of Education . The Department of Education is not concerned with any of the paras 1 to 26 of the Writ petition filed by Shri Bijan Ghosh.

- In view of the statements and submissions made in the above paragraph, your Lordship be pleased to delete the name of Secretary, Department of Education from the list of respondents. It is prayed accordingly.
- The statements made in paras 1, 2, and 3 above are true to my knowledge, those contained 4 and 5 are true to my information and that made in paragraph 6 is a submission to this Hon'ble Court.

Prepared in my Office .

(Ravindra Kumar)

( Deponent )

is known to me

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Layanta Gascon.

The statements made in mare !

Clerk to Mro Made with the true to my

Advocate

Solemnly affirmed before me on

this the 17th day of

November, 1993.

The statustica men-

## DISTRICT: CALCUTTA.

IN THE HIGH COURT AT CALSUTTA Constitutional Writ Jurisdiction Appellate Side

C.O./C.R.No. (W) of 1992

In the matter of:

An application for vacating the order ;

And

In the matter of: Bijan Ghosh

.. Petitioner

Versus

Union of India & Anr.

.. Respondents

Affidavit-in-opposition by Ravindra Kumar affried on this 17th day of November, 1993.

Life Charles

Mrs. Arati Dutta, Advocate, 6,01d Post Office Street Calcutta- 700 001. 5. No. 51 (Issue)

BY HAND

No. 1/27/91-Public
Government of India/ Bharat Sarkar
Ministry of Home Affairs/ Grih Mantralaya

New Delhi, the 20th November, 1993.

To

Shri R.N. Das, Special Panel Counsel, Calcutta High Court, 88, Chowrangee Road, Calcutta.

Dear Sir,

As you are aware the Hon'ble High Court Calcutta heard the matter C.O.No.6720(W) of 1993, Bijan Ghosh Versus Union of India and others on 29th September, 1993. In their order dated 29th September, 1993, the Hon'ble Shri Justice Shyamal Kumar Sen directed that Secretary, Ministry of Home Affairs, New Delhi and the Secretary, Education, in the Ministry of Human Resource Development, New Delhi will file separate affidavits as per order dated September 1, 1993, passed by this Court. The Court further directed that such affidavits will be filed by 23rd November, 1993.

- As regards the affidavit to be filed by the Secretary, Ministry of Home Affairs, New Delhi, the same has been finalised explaining the reasons why the Hon'ble Court's order dated 2nd August, 1993, could not be responded to earlier. This affidavit has been signed by Shri S. Sathyam, Special Secretary to the Government of India, Ministry of Home Affairs and has been got duly sworn in before Central Government Notary at New Delhi today the 20th November, 1993. A copy of this affidavit along with necessary number of additional copies is sent herewith with the request that you may kindly have it filed in the High Court at Calcutta through Mrs. Arati Dutta, Advocate, who has filed affidavits in opposition in this case on earlier occasions also. This may kindly be got done as soon as Shri K.C. Srivastava, Section Officer of this Ministry reaches Calcutta on 22nd November, 1993 and reports to you.
- 3. As you may be aware, an affidavit on behalf Secretary, Education, Ministry of Human Resource Development, New Delhi, has already been filed in the Hon'ble High Court at Calcutta by a Desk Officer of that Ministry who was in Calcutta earlier for the said purpose.
- 4. In this connection your attention is invited to the endorsement of my d.o. letter of even number dated 15th November, 1993, requesting therein that the affidavit-in-opposition in response to the writ petition filed by Dr. Sushant Kumar Mitra, an added respondent may be sent to this Ministry duly settled by you. I hope necessary affidavit-in-opposition would have been settled by this time for facility of reference. I am sending along with Shri Srivastava

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- 2 -

another copy of the correspondence along with a copy of the parawise comments sent to Shri Kundu on 22nd October, 1993. I am directed to request you that the affidavit-in-opposition duly settled by you may be sent by hand through Shri Srivastava, Section Officer of this Ministry.

5. It is once again requested that the affidavit required to be filed in the High Court at Calcutta latest by 23rd November, 1993, may be got filed on 22nd November itself and if for any reason it is not possible to file it on 22nd then on 23rd November, 1993, the last date for so doing.

With regards,

Yours faithfully,

(V.P. Bhatia)
Under Secretary to the Govt. of India.

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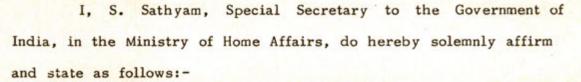
#### IN THE HIGH COURT OF CALCUTTA

C.O. NO.6720(W) OF 1993.

Bijan Ghosh & Ors. Versus

Union of India and Others

AFFIDAVIT OF SHRI S. SATHYAM, SPECIAL SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF HOME AFFAIRS



1. The Hon'ble High Court at Calcutta has, during the hearing of the above-cited matter, namely, C.O. 6720(W) of 1993, on 29th September, 1993, ordered that the Secretary, Ministry of Home Affairs, Government of India, New Delhi will file an affidavit as per the order dated 1st September, 1993, passed by the Hon'ble Court.

order dated 1st September, 1993, nor the Hon'ble Court's order

It is respectfully submitted that neither the Hon'ble Court's

- ther from the Hon'ble Court directly or through the Central Government Advocate. A copy of the Hon'ble Court's order dated 2nd August, 1993 was received in the Ministry of Home Affairs the petitioner in September, 1993. A copy of the Hon'ble Court's order dated 1st September, 1993, was obtained personally by Shri V.P. Bhatia, Under Secretary in the Ministry of Home Affairs, from the Central Government Advocate on 23rd September, 1993 at Calcutta when he had gone there to be present in the Hon'ble Court at the time of hearing of the above-cited matter on that day.
  - 3. As soon as copies of the Hon'ble Court's orders dated 2nd August, 1993 and 1st September, 1993 were available, the question

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of production of the relevant records in this case was considered in the Ministry of Home Affairs.

- 4. The Secretary to the Government of India in the Ministry of Home Affairs who is the Head of the Department, and as such, in control of and in charge of its records decided to claim privilege, under Sections 123 and 124 of the Evidence Act, read with Article 74(2) of the Constitution, in respect of the records pertaining to the declaration of the Award of Bharat Ratna posthumously to Netaji Subhas Chandra Bose.
- The affidavit of the Secretary to the Government of India in the Ministry of Home Affairs claiming privilege, as aforesaid, was filed in the Hon'ble Court on 29th September, 1993, and is before the Hon'ble Court.
- 6. In the circumstances, the Hon'ble Court's order dated 2nd August, 1993, has already been responded to. It could not be responded to earlier for the reasons stated in paragraph 2 above. The inconvenience caused to the Hon'ble Court is regretted.
- 7. The statements made in paragraphs 1 to 5 are true to my knowledge and based on my information derived from the records, and the prayer made in paragraph 6 is my humble submission before

this Hon'ble Court.

(S. Sathyam)

DEPONENT

#### VERIFICATION:

I, S. Sathyam, the deponent above-named, do hereby verify the contents of the above affidavit and state that the same are true to the best of my knowledge, based on official records, and nothing material has been concealed.

Verified at New Delhi on this the 20th day of November,

(S. Sathyam)

DEPONENT



1993.

Certified that the foregoing Statement was declared on solemn affirmation before me which has been read over to the deponent who has admitted it as correct.

Notary, DELHI

(Chander & Arya) Votary/Advocate

20 NOV 1993

#### EXTRAORDINARY

#### PART I - SECTION 1

NEW DELHI, SATURDAY, MARCH 28, 1992/CHAITRA 8, 1914 (SAKA)

#### PRESIDENT'S SECRETARIAT

#### NOTIFICATION

New Delhi, the 26th January, 1992 6th Magha, 1913 (Saka)

No.32-Pres/92 - The President is pleased to make the following awards:-

#### BHARAT RATNA.

ShridJehangir Ratanji Dadabhai Tata

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#### PADMA VIBHUSHAN

Shrimati Aruna Asaf Ali (Public Life), New Delhi.

the trade of the territory

Shri Govinddas Mannulal Shroff (Education and Social Work), Aurangabad,

Shri Laxmanshastri Balaji Joshi (Indian Philosophy), Satara, Maharashtra.

Shri Ravi Narayan Reddy (Posthumous) (Public Life), Hyderabad, Andhra Pradesh.

Sardar Swaran Singh (Public Life), Jullundar, Punjab.

#### PADMA BHUSHAN

Hakim Abdul Hameed (Unani Medicine), New Delhi.

Called the Control

Shri Bijoy Chandra Bhagavati (Public Life), Sonitpur, Assam.

Shrimati Byrappa Saroja Devi Sci Harsha (Film Acting & Social Service), Bangalors, Karnataka.

Pandit Chintaman Raghunath Vyas (Music-Vocal), Bombay, Manarashtra.

Shri Dalsukh Dahyabhai Malvania (Literature-Sanskrit), Ahmedabad, Gujarat.

Pandit Devabrata Chaudhuri (Debu) (Instrumental Music-Sitar), New Delhi.

Shri Girish Karnad (Playwright), Bangalora, Karnataka.

Shri Goro Koyama (Indo-Japanese Trade Relations), Tokyo, Japan.

Prof. Gursaran Prashad Talwar (Immunology), New Delhi.

Shri Hasmukh Thakordas Parekh (Economic activities), Bombay,

Dr. Khem Singh Gill (Genetics & Plant Breeding), Ludhiana, Punjab.

Shri Kongara Jaggaiah (Theatre &Film Acting), Madras, Tamil

Dr. Krishnaswamy Kasturirangan (Space Tachnology), Bangalore, Karnataka.

· Shri Naushad Ali Wahid Ali (Music-Films); Bombay, Maharashtra.

Dr. Ramchandra Dattatraya Lele (Medicine), Bombay, Maharashtra.

Shrimati Sonal Mansingh (Classical Dance-Bharatanatyam & Odissi), New Delhi.

Shri Syed Abdul Malik (Literature), Jorhat, Assam.

J'16: 10

Dr. Thayil John Cherian (Cardio thoracic and general surgery), Madras, Tamil Nadu.

Prof. Trippunithura Narayan Krishnan (Classical Music-Violin), Delhi.

#### PADMA SHRI

Shri Alfred Georg Wuerfel (Propagation of Indo-German Cultural Relation), New Delhi.

Dr. (Smt.) Amrit Tewari (Medicine-Dentistry), Chandigarh.

Dr. Anil Kohli (Dental Surgery), New Delhi.

Kum., Asha Bachubhai Parekh (Film acting and dance), Bombay, Maharashtra.

Shri Aspy Darabshaw Adajania (Sports-Boxing), Bombay, Maharashtra.

Shri Biren De (Painting), Delhi.

Shrimati Chitra Visweswaran (Classical Danca-Bharatanatyam), Madras, Tamil Nadu.

Dr. (Kum.) Esther Abrham Solomon (Literature-Sanskrit), Ahmedabad, Gujarat.

Shri Gjanardhana Puranik Narayana Rao (Civil Engineering),
Bhutan.

Shri Gulabdas Harjivandas Broker (Literature-Gujarati), Bombay,

Shri Homijehangir Hormusji, Talayarkhan (Public Life), Bombay, Maharashtra.

Shri Jagjit Singh Hara (Agriculture), Ludhiana, Punjab.

Shri Joseph Allen Stein (Architecture), New Delhi.

Dr. Kameshwar Prasad (Neurology), New Delhi.

Shri Kandathil Mamman Mammen Mappillai (Industrial Development), Madras, Tamil Nadu.

Shri Kasinadhuni Vishwanath (Film Direction), Madras, Tamil Nadu.

Shri Krishnan Krishnan Nair alias Krishna Chaitanya (Literature), New Delhi.

Dr. Lovelin Kumar Gandhi (Proshthodontics), New Delhi.

Dr. Luis Jose de Souza (Medicine-Oncology), Bombay, Maharashtra.

Shri Mahipatrai Jadavji Shah (Social Work), Bombay, Maharashtra.

' Mathura Nath Bhattacharyya (Medicine-Physician), Dibrugarh,

Shri Mayankote Kelath Narayanan (Civil Service), New Delhi.

Mir Mushtaq Ahmed (Journalism & Education), New Delhi.

Dr. Nataraja Ramakrishna (Dance), Hyderabad, Andhra Pradesh.

Shri Nisith Ranjan Ray (Education-History), Calcutta, Wast Bengal,

Dr. Pakkiam Vaikundam Arulanandam Mohandas (Orthopaedic Surgery), Madras, Tamil Nadu.

Dr. (Smt.) Rajamust (Social Work), Akola, Dr. (Smt.) Rajammal Packiyanathan Devadas (Home Science),

1417 For Maharashtra.

Ustad Sabri Khan (Hindustani Music-Sarangi), New Delhi.

于自动机会的标准设计。 Prof. Saiyid Amir Hasan Abidi (Education-Perisan), Dalhi.

Shrimati Shovana Narayan (Kathak Dance), New Delhi.

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Shrimati Sundari Krishnalal Shridharani (Education), New Delhi.

Shrimati Sunita Kohli (Interior Decoration), New Delhi.

Prof. Dr. (Smt.) Usha Kehar Luthra (Cancer Research), New Delhi.

(A.K. Upadhyay)

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#### EXTRAORDINARY

#### PART I - SECTION 1

NEW DELHI, SATURDAY, MARCH 28, 1992/CHAITRA 6, 1914 (SAKA)

#### PRESIDENT'S SECRETARIAT

# NOTIFICATION

New Delhi, the 26th January, 1992 6th Magha, 1913 (Saka)

No.32-Pres/92 - The President is pleased to make the following awards:-

#### BHARAT RATNA

Shri Jehangir Ratanji Dadabhai Tata

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Marie Control

# PADMA VIBHUSHAN

Shrimati Aruna Asaf Ali (Public Life), New Delhi.

Shri Govinddas Mannulal Shroff (Education and Social Work), Aurangabad, Maharashtra.

Shri Laxmanshastri Balaji Joshi (Indian Philosophy), Satara, Maharashtra.

Shri Ravi Narayan Reddy (Posthumous) (Public Life), Hyderabad, Andhra Pradesh.

Sardar Swaran Singh (Public Life), Jullundar, Punjab.

#### PADMA BHUSHAN

Hakim Abdul Hameed (Unani Medicine), New Delhi.

Shri Bijoy Chandra Bhagavati (Public Life), Sonitpur, Assam.

Shrimati Byrappa Saroja Devi Sci Harsha (Film Acting & Social Service), Bangalore, Karnataka.

Pandit Chintaman Raghunath Vyas (Music-Vocal), Bombay, Manarashtra.

Shri Dalsukh Dahyabhai Malvania (Literature-Sanskrit), Ahmedabad, Gujarat.

Pandit Devabrata Chaudhuri (Dabu) (Instrumental Music-Sitar), New Dalhi.

Shri Girish Karnad (Playwright), Bangalore, Karnataka.

Shri Goro Koyama (Indo-Japanese Trade Relations), Tokyo, Japan.

Prof. Gursaran Prashad Talwar (Immunology), New Delhi.

Shri Hasmukh Thakordas Parekh (Economic activities), Bombay, Maharashtra.

Dr. Khem Singh Gill (Genetics & Plant Breeding), Ludhiana,

Shri Kongara Jaggaiah (Theatre &Film Acting), Madras, Tamil Nadu.

Dr. Krishnaswamy Kasturirangan (Space Technology), Bangalore, Karnataka.

Shri Naushad Ali Wahid Ali (Music-Films), Bombay, Maharashtra.

Dr. Ramchandra Dattatraya Lele (Medicine), Bombay, Maharashtra.

Shrimati Sonal Mansingh (Classical Dance-Bharatanatyam & Odissi), New Delhi.

Shri Syed Abdul Malik (Literature), Jorhat, Assam.

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Dr. Thayil John Cherian (Cardio thoracic and general surgery), Madras, Tamil Nadu.

Prof. Trippunithura Narayan Krishnan (Classical Music-Violin), Delhi.

#### PADMA, SHRI

Shri Alfred Georg Wuerfel (Propagation of Indo-German Cultural Relation), New Delhi.

Dr. (Smt.) Amrit Tewari (Medicine-Dentistry), Chandigarh.

Dr. Anil Kohli (Dental Surgery), New Delhi.

Kum. Asha Bachubhai Parekh (Film acting and dance), Bombay, Maharashtra.

Shri Aspy Darabshaw Adajania (Sports-Boxing), Bombay, Maharashtra.

Shri Biren De (Painting), Delhi.

WA

Shrimati Chitra Visweswaran (Classical Danca-Bharatanatyam), Madras, Tamil Nadu.

Dr. (Kum.) Esther Abrham Solomon (Literature-Sanskrit), Ahmedabad, Gujarat.

Shri Gjanardhana Puranik Narayana Rao (Civil Engineering), Bhutan.

Shri Gulabdas Harjivandas Broker (Literature-Gujarati), Bombay, Maharashtra.

Shri Homijehangir Hormusji Talayarkhan (Public Life), Bombay, v Maharashtra.

Shri Jagjit Singh Hara (Agriculture), Ludhiana, Punjab.

Shri Joseph Allen Stein (Architecture), New Delhi.

Dr. Kameshwar Prasad (Neurology), New Delhi.

Shri Kandathil Mammen Mammen Mappillai (Industrial Development), Madras, Tamil Nadu.

Shri Kasinadhuni Vishwanath (Film Direction), Madras, Tamil Nadu.

Shri Krishnan Krishnan Nair alias Krishna Chaitanya (Literature), New Delhi.

Dr. Lovelin Kumar Gandhi (Proshthodontics), New Delhi.

Dr. Luis Jose de Souza (Medicine-Oncology), Bombay, Maharashtra.

Shri Mahipatrai Jadavji Shah (Social Work), Bombay, Maharashtra.

Assam,

AShri Mayankote Kelath Narayanan (Civil Service), New Delhi.

Mir Mushtaq Ahmed (Journalism & Education), New Delhi.

Dr. Nataraja Ramakrishna (Dance), Hyderabad, Andhra Pradesh.

Shri Nisith Ranjan Ray (Education-History), Calcutta, Wast Bengal.

Dr. Pakkiam Vaikundam Arulanandam Mohandas (Orthopaedic

Dr. (Smt.) Rajammal Packiyanathan Devadas (Home Science),

Shri Ramsing Fakiraji Bhanawat (Social Work), Akola,

Ustad Sabri Khan (Hindustani Music-Sarangi), New Delhi.

Prof. Saivid Amir Hasan Abidi (Education-Perisan), Dalhi.

(Shrimati Shovana Narayan (Kathak Dance), New Delhi.

Shrimati Sundari Krishnalal Shridharani (Education), New Delhi.

Shrimati Sunita Kohli (Interior Decoration), New Delhi.

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Prof. Dr. (Smt.) Usha Kehar Luthra (Cancer Research), New Delhi.

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#### THE GAZETTE OF INDIA

#### EXTRAORDINARY

#### PART I - SECTION 1

NEW DELHI, SATURDAY, MARCH 28, 1992/CHAITRA 8, 1914 (SAKA)

#### PRESIDENT'S SECRETARIAT

#### NOTIFICATION

New Delhi, the 26th January, 1992 6th Magha, 1913 (Saka)

No.32-Pres/92 - The President is pleased to make the following awards:-

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#### BHARAT RATNA.

Shrid Jehangir Ratanji Dadabhai Tata

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#### PADMA VIBHUSHAN

Shrimati Aruna Asaf Ali (Public Life), New Delhi.

Shri Govinddas Mannulal Shroff (Education and Social Work), Aurangabad, Maharashtra.

Shri Laxmanshastri Balaji Joshi (Indian Philosophy), Satara, Maharashtra.

Pradesh. Pradesh.

Sardar Swaran Singh (Public Life), Jullundar, Punjab.

#### PADMA BHUSHAN

Hakim Abdul Hameed (Unani Medicine), New Delhi.

Shri Bijoy Chandra Bhagavati (Public Life), Sonitpur, Assam.

Shrimati Byrappa Saroja Devi Sci Harsha (Film Acting & Social Service), Bangaloro, Karnataka.

Pandit Chintaman Raghunath Vyas (Music-Vocal), Bombay, Manarashtra.

Shri Dalsukh Dahyabhai Malvania (Literature-Sanskrit), Ahmedabad, Gujarat.

Pandit Devabrata Chaudhuri (Debu) (Instrumental Music-Sitar), New Delhi.

Shri Girish Karnad (Playwright), Bangalore, Karnataka.

Shri Goro Koyama (Indo-Japanese Trade Relations), Tokyo, Japan.

Prof. Gursaran Prashad Talwar (Immunology), New Delhi.

Shri Hasmukh Thakordas Parekh (Economic activities), Bombay, Maharashtra.

Dr. Khem Singh Gill (Genetics & Plant Breeding), Ludhiana,

Shri Kongara Jaggaiah (Theatre &Film Acting), Madras, Tamil Nadu.

Dr. Krishnaswamy Kasturirangan (Space Tachnology), Bangalore, Karnataka.

Shri Naushad Ali Wahid Ali (Music-Films), Bombay, Maharashtra.

Dr. Ramchandra Dattatraya Lele (Medicine), Bombay, Maharashtra.

Shrimati Sonal Mansingh (Classical Dance-Bharatanatyam & Odissi), New Delhi.

Shri Syed Abdul Malik (Literature), Jorhat, Assam.

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Dr. Thayil John Cherian (Cardio thoracic and general surgery), Madras, Tamil Nadu.

Prof. Trippunithura Narayan Krishnan (Classical Music-Violin), Delhi.

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#### PADMA SHRI

Shri Alfred Georg Wuerfel (Propagation of Indo-German Cultural Relation), New Delhi.

Dr. (Smt.) Amrit Tewari (Medicine-Dentistry), Chandigarh.

Dr. Anil Kohli (Dental Surgery), New Delhi.

Kum., Asha Bachubhai Parekh (Film acting and dance), Bombay, Maharashtra.

Shri Aspy Adajania (Sports-Boxing), Darabshaw Maharashtra.

Shri Biren De (Painting), Delhi.

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Shrimati Chitra Visweswaran (Classical Dance-Bharatanatyam), OHE SE Madras, Tamil Nadu. Peter.

Abrham Solomon Dr. (Kum.) Esther Abrham Sol Ahmedabad, Gujarat. (Literature-Sanskrit),

Shri Gjanardhana Puranik Narayana Rao (Civil Engineering),
Bhutan.

Shri Gulabdas Harjivandas Broker (Literature-Gujarati), Bombay, - Analysis of Maharashtra.

Shri Homijehangir Hormusji, Talayarkhan (Public Life), Bombay, " Maharashtra.

Shri Jagjit Singh Hara (Agriculture), Ludhiana, Punjab.

Shri Joseph Allen Stein (Architecture), New Delhi.

Dr. Kameshwar Prasad (Neurology), New Delhi.

Shri Kandathil (Industrial Mammen Mappillai Mamman Development), Madras, Tamil Nadu.

Shri Kasinadhuni Vishwanath (Film Direction), Madras, Tamil Nadu.

Shri Krishnan Nair alias Krishna Chaitanya Krishnan (Literature), New Delhi.

Dr. Lovelin Kumar Gandhi (Proshthodontics), New Delhi.

Dr. Luis Jose de Souza (Medicine-Oncology), Bombay, Maharashtra.

Shri Mahipatrai Jadavji Shah (Social Work), Bombay, Maharashtra.

Dr. Mathura Nath Bhattacharyya (Medicine-Physician), Dibrugarh,

Shri Mayankote Kelath Narayanan (Civil Service), New Delhi.

Mir Mushtaq Ahmed (Journalism & Education), New Delhi.

Pr. Nataraja Ramakrishna (Dance), Hyderabad, Andhra Pradesh.

Shri Nisith Ranjan Ray (Education-History), Calcutta, Wast Bengal.

Pakkiam Vaikundam Arulanandam Mohandas (Orthopaedic Surgery), Madras, Tamil Nadu. . rachbergelles

Dr. (Smt.) Rajammal Packiyanathan Devadas (Home Science), May Jan. Colmbatore, Tamil Nadu. William W. I'm

Shri Ramsing Fakiraji Bhanawat (Social Work), Akola, Maharashtra.

Ustad Sabri Khan (Hindustani Music-Sarangi), New Delhi.

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Shrimati Sunita Kohli (Interior Decoration), New Delhi.

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Prof. Dr. (Smt.) Usha Kehar Luthra (Cancer Research), New

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#### THE GAZETTE OF INDIA

#### EXTRAORDINARY

#### PART I - SECTION 1

NEW DELHI, SATURDAY, MARCH 28, 1992/CHAITRA 8, 1914 (SAKA)

#### PRESIDENT'S SECRETARIAT

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No.32-Pres/92 - The President is pleased to make the following awards:-

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Shri Ravi Narayan Reddy (Posthumous) (Public Life), Hyderabad, Andhra Pradesh.

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Shri Jagjit Singh Hara (Agriculture), Ludhiana, Punjab.

Shri Joseph Allen Stein (Architecture), New Delhi.

Dr. Kameshwar Prasad (Neurology), New Delhi.

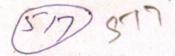
Shri Kandathil Mammen Mammen Mappillai (Industrial Development), Madras, Tamil Nadu.

Shri Kasinadhuni Vishwanath (Film Direction), Madras, Tamil Nadu.

Shri Krishnan Krishnan Nair alias Krishna Chaitanya (Literature), New Delhi.

Dr. Lovelin Kumar Gandhi (Proshthodontics), New Delhi.

Dr. Luis Jose de Souza (Medicine-Oncology), Bombay, Maharashtra.



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